



STATE OF IOWA
MASTER AGREEMENT

MA# 005 CT2985 2

EFFECTIVE BEGIN DATE: 04-27-2006
EXPIRATION DATE: 04-30-2008
PAGE: 1 of 4

BUYER : ASHLEY SUPER
ashley.super@iowa.gov
515-281-7073

FOB

PAYMENT TERMS (%): DAYS:

VENDOR:

Paper Free Technology
Inc
9810 Quail Ridge
Urbandale, IA 50322-1393
USA

VENDOR CONTACT:

FAX
PHONE: 515 999-9999 EXT:
EMAIL:
VENDOR #: 39188032200

DESCRIPTION OF ITEMS CONTRACTED

LaserFiche Products and Services per attached contract.
Reference Bid # BD80600S371 attached. Contract for support services and volume discount.

Note: This is not an exclusive contract for imaging systems. Agencies should use competitive selection when considering which imaging system available in the market besides LaserFiche would best serve their needs.

See Amendment One which changed the allowable mileage rate and Insurance requirements.

RENEWAL PERIODS

FROM 05-01-2008 TO 04-30-2009
FROM 05-01-2009 TO 04-30-2010
FROM 05-01-2010 TO 04-30-2011
FROM 05-01-2011 TO 04-30-2012

THRESHOLDS

MINIMUM ORDER AMOUNT:
MAXIMUM ORDER AMOUNT:
NOT TO EXCEED AMOUNT:

AUTHORIZED DEPARTMENT

ALL
SUB Political Sub-divisions

TOTAL \$0.00

VENDOR: _____
APPROVED BY: _____

THIS MA IS SUBJECT TO THE TERMS AND
CONDITIONS ATTACHED HERETO.
PLEASE SEE ATTACHMENTS FOR
FURTHER DESCRIPTIONS.



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MA# 005 CT2985 2

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EXPIRATION DATE: 04-30-2008
PAGE: 2 of 4

LINE NO.	QUANTITY / SERVICE DATES	UNIT	COMMODITY / DESCRIPTION	UNIT COST / PRICE OF SERVICE
1	0.00000		208	\$0.000000
			COMPUTER SOFTWARE FOR MICROCOMPUTERS (PREPROGRAMMED)	\$0.000000



**STATE OF IOWA
MASTER AGREEMENT**

MA# 005 CT2985 2
EFFECTIVE BEGIN DATE: 04-27-2006
EXPIRATION DATE: 04-30-2008
PAGE: 3 of 4

TERMS AND CONDITIONS

Incorporation

The Request for Proposal and/or bid documents for this project and the vendor's proposal in response to the RFP or Bid together with any clarifications, attachments, appendices, or amendments of the State or the Vendor are incorporated into this Contract by reference as if fully set forth in this Contract.

Remedies upon Default

In any case where the vendor has failed to deliver or has delivered non-conforming goods and/or services, the State shall provide a cure notice. The notice to cure shall state the maximum length of time the vendor has to cure. If after the time period stated in the notice to cure has passed, the vendor continues to be in default, the State may procure goods and/or services in substitution from another source and charge the difference between the contracted price and the market price to the defaulting vendor. The State's Attorney General shall be requested to make collection from the defaulting vendor.

Force Majeure

Force majeure includes acts of God, war, civil disturbance and any other causes which are beyond the control and anticipation of the party affected and which, by the exercise of reasonable diligence, the party was unable to anticipate or prevent. These provisions of force majeure also apply to subcontractors or suppliers of the Vendor. Force majeure does not include financial difficulties of the Vendor or any associated company of the Vendor, or claims or court orders that restrict the Vendor's ability to deliver the goods or services contemplated by this Agreement. Neither the Vendor nor the State shall be liable to the other for any delay or failure of performance of this Agreement caused by a force majeure, and not as a result of the fault or negligence of a party.

Subcontractors

The successful vendor shall be responsible for all acts and performance of any subcontractor or secondary supplier that the successful vendor may engage for the completion of any contract with the State. A delay that results from a subcontractor's conduct, negligence or failure to perform shall not exempt the vendor from default remedies. The successful vendor shall be responsible for payment to all subcontractors and all other third parties.

Termination-Non-Appropriation

Notwithstanding any other provision of this contract, if funds anticipated for the continued fulfillment of this contract are at any time not forthcoming or insufficient, either through the failure of the State to appropriate funds, discontinuance or material alteration of the program for which funds were provided, then the State shall have the right to terminate this contract without penalty by giving not less than thirty (30) days written notice documenting the lack of funding, discontinuance or program alteration.

Immunity of State/Fed Agencies

The vendor shall defend and hold harmless the State and Federal funding source for the State of Iowa from liability arising from the vendor's performance of this contract and the vendor's activities with subcontracted and all other third parties.

Assignment

Vendors may not assign contracts or purchase orders to any party (including financial institutions) without written permission of the General Services Enterprise - Purchasing.

Anti-Trust Assignment

For good cause and as consideration for executing this purchase order, the vendor, through its duly authorized agent, conveys, sells, assigns, and transfers to the State of Iowa all rights, title and interest in and to all causes of action it may now or hereafter acquire under the anti-trust laws of the United States and the State of Iowa, relating to the particular goods or services purchased or acquired by the State of Iowa pursuant to the using State of Iowa agency.

Delivery and Acceptance

When an award has been made to a vendor and the purchase order issued, deliveries are to be made in the following manner.

A. Deliveries - All deliveries are to be made only to the point specified on the purchase order. If delivery is made to any other point, it shall be the responsibility of the vendor to promptly reship to the correct location. Failure to deliver procured goods on time may result in cancellation of an order or termination of a contract at the option of the State.

B. Delivery Charges - All delivery charges should be to the account of the vendor whenever possible. If not, all delivery charges should be prepaid by vendor and added to the invoice.

C. Notice of Rejection - The nature of any rejections of a shipment, based on apparent deficiencies disclosed by ordinary methods of inspection, will be given by the receiving agency to the vendor and carrier within a reasonable time after delivery of the item, with a copy of this notice to the General Services Enterprise - Purchasing. Notice of latent deficiencies which would make items unsatisfactory for the purpose intended may be given by the State of Iowa at any time after acceptance.

Delivery and Acceptance (cont)

D. Disposition of Rejected item - The vendor must remove at the vendor's expense any item rejected by the State. If the vendor fails to remove that rejected item, the State may dispose of the item by offering the same for sale, deduct any accrued expense and remit the balance to the vendor.

E. Testing After Delivery - Laboratory analysis of an item or other means of testing may be required after delivery. In such cases, vendors will be notified in writing that a special test is being made and that payment will be withheld until completion of the testing process.

Title to Goods

The vendor warrants that the goods purchased hereunder are free from all liens, claims or encumbrances.

Indemnification

To the extent that goods are not manufactured in accordance with the State's design, the vendor shall defend, indemnify and hold harmless the State of Iowa, the State's assignees, and other users of the goods from and against any claim of infringement of any Letter Patent, Trade Names, Trademark, Copyright or Trade Secrets by reason of sale or use of any articles purchased hereunder. The State shall promptly notify the vendor of any such claim.

Nondiscrimination

The vendor is subject to and must comply with all federal and state requirements concerning fair employment and will not discriminate between or among them by reason of race, color, religion, sex, national origin or physical handicap.

Warranty

The vendor expressly warrants that all goods supplied shall be merchantable in accordance with the Uniform Commercial Code, Section 2-314 and the Iowa Code, Section 554.2314.

Taxes



STATE OF IOWA
MASTER AGREEMENT

MA# 005 CT2985 2
EFFECTIVE BEGIN DATE: 04-27-2006
EXPIRATION DATE: 04-30-2008
PAGE: 4 of 4

The State of Iowa is exempt from the payment of Iowa sales tax, motor vehicle fuel tax and any other Iowa tax that may be applied to a specified commodity and/or service. Contractors performing construction activities are required to pay state sales tax on the cost of materials. The Iowa Department of Revenue exemption letter will be furnished to a vendor upon request.

Hazardous Material

All packaging, transportation, and handling of hazardous materials shall be in accordance with applicable federal and state regulations including, but not limited to, the Material Safety Data Sheet provision of O.S.H.A. Hazard Communication Standard 29CFR 1910.1200, and Iowa Administrative Code, Chapter 567.

Public Records

The laws of the State of Iowa require procurement records to be made public unless exempted by the Code of Iowa.

Miscellaneous

The terms and provisions of this contract shall be construed in accordance with the laws of the State of Iowa. Any and all litigation or actions commenced in connection with this contract shall be brought in Des Moines, Iowa, in Polk County District Court for the State of Iowa. If however, jurisdiction is not proper in Polk County District Court, the action shall only be brought in the United States District Court for the Southern District of Iowa, Central Division, providing that jurisdiction is proper in that forum. This provision shall not be construed as waiving any immunity to suit or liability, which may be available to the State of Iowa.

If any provision of this contract is held to be invalid or unenforceable, the remainder shall be valid and enforceable.

Records Retention

The vendor shall maintain books, records, and documents which sufficiently and properly document and calculate all charges billed to the State of Iowa throughout the term of this Agreement for a period of at least five (5) years following the date of final payment or completion of any required audit, whichever is later. The vendor shall at, no charge, permit the Auditor of the State of Iowa, or any authorized representative of the State (or where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government) to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records, or other records of the vendor relating to orders, invoices, or payments documentation or materials pertaining to this Agreement.

Independent Contractor

The vendor is an independent contractor performing services for the State of Iowa, and as such shall not hold itself out as an employee or agent of the State.

Performance Monitoring

For all service contracts, the requirements of Iowa Code sections 8.47 shall be incorporated into final terms and conditions of the contract.

N60

NET 60 DAYS



General Services Enterprise

Thomas J. Vilsack, Governor
Sally J. Pederson, Lt. Governor

Mollie K. Anderson, Director
Paul F. Carlson, Chief Operating Officer

**Amendment # One
To Contract CT2985**


A. Contract Section 5.5 – Reimbursable Expenses, second paragraph, shall read as follows:


For work performed outside the Des Moines, Iowa Metro Area, Vendor may charge additional fees as outlined below:

- 1) **Mileage: \$ 0.34 per business mile** or current rate set by Iowa Code. Reference: Iowa Department of Administrative Services, State Accounting Enterprise Procedure # 210.130.
http://das.sae.iowa.gov/images/accr_docs/Accr%20Word/210-130.doc.
Mileage is as determined by MapQuest® computer mapping from vendor's headquarters (currently 9810 Quail Ridge, Urbandale, IA) to and from Department's Destination.
- 2) **Meals and Lodging** shall be in accordance with Department of Administrative Services - State Accounting Enterprise Policy 210.245 regarding in-state travels.
http://das.sae.iowa.gov/images/accr_docs/Accr%20Word/210-245.doc.

B. Contract Section 11.1 – Insurance Policies, shall read as follows: “Vendor shall maintain in full force and effect, with insurance companies of recognized responsibility, at its expense, insurance covering its work of the type and in amounts required by this Agreement. Vendor's insurance shall, among other things, insure against loss or damage resulting from Vendor's performance of this Agreement and shall be subject to the approval of the Department. All such insurance policies shall remain in full force and effect for the entire term of this Agreement and shall not be canceled or changed without the Department's prior written consent. Unless otherwise requested by the Department, Vendor shall, at its sole cost, cause to be issued and maintained in effect during the entire term of this Agreement not less than the insurance coverage set forth below each naming the State of Iowa as an additional insured or loss payee, as applicable:”

Type of Insurance	LIMIT	AMOUNT
General Liability (including contractual liability) written on an occurrence basis	General Aggregate	\$2 million
	Prod./Comp. Aggregate	\$1 million
	Personal injury	\$1 million
	Each Occurrence	\$1 million
Excess Liability, umbrella form	Each Occurrence	\$1 million
	Aggregate	\$1 million
Errors and Omissions Insurance	Each Occurrence	\$1 million
Property Damage	Each Occurrence	\$1 million
	Aggregate	\$2 million
Workers Compensation and Employer Liability	As Required by Iowa law	


Ashley Super, PA III
Iowa Department of Administrative Services
Date 5/26/06


Dr. Sam Warren, Ed.D
Paper Free Technology, Inc.
Date 5/25/2006

DAS GSE MASTER AGREEMENT CT2985

This exclusive Agreement for Professional Services (this "Agreement"), made by and between the **State of Iowa** ("State") as represented by The Iowa Department of Administrative Services, General Services Enterprise on behalf of all State of Iowa Agencies and Political Sub-Divisions, and **Paper Free Technology, Inc.**, a corporation organized under the laws of Iowa ("Vendor"). The parties agree as follows:

Section 1 Purpose

The parties have entered into this Agreement for the purpose of retaining Vendor as a Value Added Re-Seller to provide all **LaserFiche® line of products at a 15% discount** from the Manufacturer's (Compulink Management Center, Inc.) suggested Retail Price List and to provide professional services, customized software and other deliverables as may be required in connection with the LaserFiche® line of applications ("System") for the State of Iowa (the "State"). The Manufacturer's suggested Retail Price List does not include Promotional Pricing which exists for brief periods of time and represents customer discounts already greater than the 15% detailed above.

This agreement is open for use by all State of Iowa Agencies and Political Sub-Divisions in lieu of conducting their own competitive selection process for the products & services described herein. Agencies shall sign individual agreements with the vendor by such instruments as Purchase Orders for delivery of specific services as required by the agency ("Department"). Individual agreements shall include a STATEMENT OF WORK, a PROJECT PLAN and PERFORMANCE STANDARDS.

This agreement does not guarantee any certain amount of business from the State.

Section 2 Definitions

2.1 "Acceptance" means that the Department has determined that one or more Deliverables satisfy the Department's Acceptance Tests. Final Acceptance means that the Department has determined that all Deliverables satisfy the Department's Acceptance Tests. Non-acceptance means that the Department has determined that one or more Deliverables have not satisfied the Department's Acceptance Tests.

2.2 "Acceptance Criteria" means the Specifications, goals, performance measures, testing results and/or other criteria designated by the State and against which the Deliverables shall be evaluated for purposes of Acceptance or Non-acceptance thereof.

2.3 "Acceptance Tests" or "Acceptance Testing" mean the tests, reviews and other activities that are performed by or on behalf of Department to determine whether the Deliverables meet the Acceptance Criteria or otherwise satisfy the Department, as determined by the Department in its sole discretion. Acceptance Testing may include unit testing to check individual components, system testing on an integrated basis, user-acceptance testing, stress testing, and Documentation review.

2.4 "Confidential Information" means, subject to any applicable State and federal laws and regulations, including but not limited to Iowa Code Chapter 22, any confidential or proprietary information or trade secrets disclosed by either party (a "disclosing party") to the other party (a "receiving party") that, at the time of disclosure, is designated as confidential (or like designation), is disclosed in circumstances of confidence, or would be understood by the parties, exercising reasonable business judgment, to be confidential. Confidential Information does not include any information that: (i) was rightfully in the possession of the receiving party from a source other than the disclosing party prior to the time of disclosure of the information by the disclosing party to the receiving party; (ii) was known to the receiving party prior to the disclosure of the information by the disclosing party; (iii) was disclosed to the receiving party without restriction by an independent third party having a legal right to disclose the information; (iv) is in the public domain or shall have become publicly available other than as a result of disclosure by the receiving party in violation of this Agreement or in breach of any other agreement with the disclosing party; (v) is independently developed by the receiving party without any reliance on Confidential Information disclosed by the disclosing party; (vi) is disclosed or is required or authorized to be disclosed pursuant to law, rule, regulation, subpoena, summons, or the order of a court, lawful custodian, governmental agency or regulatory authority, or by applicable regulatory or professional standards; or (vii) is disclosed by the receiving party with the written consent of the disclosing party.

2.5 "Deficiency" means a defect, flaw, anomaly, failure, omission, interruption of service, or other problem of any nature whatsoever with respect to a Deliverable, including, without limitation, any failure of a Deliverable to conform to or meet an applicable Specification. Deficiency also includes the lack of something essential or necessary for completeness or proper functioning of a Deliverable.

2.6 "Deliverables" mean the services, Software, goods and materials to be provided by Vendor to the Department under this Agreement. Unless otherwise expressly provided in this Agreement, Deliverables shall include any and all Documentation, designs, copy, artwork, data, information, graphics, images, templates, screen designs, processes, inventions, techniques, methodologies, materials, plans, papers, forms, reports, studies, , object code, utilities and routines, devices, modifications, content, concepts, and all other tangible and intangible works, materials and property of every kind and nature related to the Deliverables or otherwise produced or provided by Vendor in connection with this Agreement.

2.7 "Documentation" means any and all technical information, commentary, design documents, test materials, training materials, guides, manuals, worksheets, notes, work papers, and all other information, documentation and materials related to or used in conjunction with the Deliverables.

2.8 "Enhancements" means any and all updates, upgrades, patches, additions, modifications or other enhancements to the Software, any new releases of Software, and all changes to the Documentation as a result of such Enhancements. (If applicable)

2.9 "Project" means the project to [develop and implement the System] and all services and Deliverables to be performed and provided by Vendor as described in this Agreement.

2.10 "Project Completion Date" means the date by which Vendor must complete all work and provide all Deliverables pursuant to this Agreement. For purposes of this Agreement, the Project Completion Date is as mutually agreed to by each requesting agency and vendor.

2.11 "Project Plan" means the Project Plan attached hereto as Schedule B, as modified from time to time upon written agreement of the parties. The Project Plan is incorporated into this Agreement by this reference as if fully set forth in this Agreement.

2.12 "Software" means the (describe specific software products) and all other software programs and components listed in Schedule A, and all related Documentation, Enhancements, object code and copies thereof or shall have the meaning ascribed to that term in a Software License Agreement.

2.13 "Software License Agreement" means the Software License Agreement by and between Vendor and the State of Iowa dated incorporated herein.

2.14 "Source Code" means the human-readable source code for the Software and includes source code listings, compile instructions, programmer's notes, and commentary for or related to the source code or Software.

2.15 "Specifications" mean all specifications, requirements, technical standards, performance standards, representations and other criteria related to the Deliverables stated or expressed in this Agreement, [the Software License Agreement], Documentation, the RFP (as defined below), and the Proposal (as defined below). Specifications shall include the Acceptance Criteria and any specifications, standards or criteria stated or set forth in any applicable state, federal, foreign and local laws, rules and regulations. The Specifications are incorporated into this Agreement by reference as if fully set forth in this Agreement.

2.16 "Statement of Work" means Schedule A to this Agreement, which describes, among other things, the Deliverables and services to be provided by Vendor under this Agreement and the compensation associated therewith. The Statement of Work is incorporated into this Agreement by this reference as if fully set forth in this Agreement.

2.17 "System" means professional services and other deliverables in connection with LaserFiche® line of applications.

2.18 "Third Party" means a person or entity (including, but not limited to any form of business organization, such as a corporation, partnership, limited liability corporation, association, etc.) that is not a party to this Agreement.

Section 3 Documents Incorporated

3.1 Incorporation. The State's Request for Proposal No BD80600S371 and Vendor's proposal in response to the RFP ("Proposal"), together with any clarifications, attachments, appendices, or amendments to the RFP and Proposal are incorporated into this Agreement by this reference as if fully set forth in this Agreement; provided, however, that none of Vendor's proposed revisions or modifications to the sample [Services Contract] attached to the RFP shall be incorporated into this Agreement unless expressly set forth herein.

3.2 Contractual Obligations. The terms and conditions of the RFP and of the Proposal are made contractual obligations of Vendor, except that any proposed revisions or modifications made by Vendor to the sample [Services Contract] attached to

the RFP Proposal shall not be deemed to limit, modify or otherwise affect any of the contractual obligations of Vendor or the Department hereunder, unless expressly stated herein.

3.3 Preference. In the case of any inconsistency or conflict between the specific provisions of this document, the RFP or the Proposal, any inconsistency or conflict shall be resolved as follows: first, by giving preference to the specific provisions of this document and any schedules, exhibits or other attachments; second, by giving preference to the specific provisions of the RFP; and third, by giving preference to the specific provisions of the Proposal.

3.4 No Inconsistency. The references to the parties' obligations, which are contained in this document, are intended to change, modify, supplement or clarify the obligations as stated in the RFP and the Proposal. The failure of the parties to make reference to the terms of the RFP or Proposal in this document shall not be construed as creating a conflict and will not relieve Vendor of the contractual obligations imposed by the terms of the RFP and the Proposal. Terms offered in the Proposal, which exceed the requirements of the RFP, shall not be construed as creating an inconsistency or conflict with the RFP or this document. The contractual obligations of the Department cannot be implied from the Proposal.

Section 4 Scope of Work

4.1 Scope of Work. Vendor shall provide the Department with the Deliverables in accordance with the Statement of Work (Schedule A) and all other terms and conditions of this Agreement.

4.2 Amendments to Statement of Work. The parties agree that the Statement of Work may be amended, modified, or replaced at any time during the term of this Agreement upon the mutual written consent of the parties.

4.3 Performance Standards. The parties agree that the performance standards and related payment, monitoring and review provisions set forth in Schedule C are incorporated herein by this reference as if fully set forth in this Agreement. [These must be mutually developed and included pursuant to 11 Iowa Admin. Code 107.]

Section 5 Compensation and Additional Rights and Remedies

5.1 Compensation. In consideration of Vendor providing the Department with the Deliverables in accordance with the terms and conditions of this Agreement, Vendor shall be entitled to receive the fees or other compensation associated with such Deliverables as specified in Schedule A, subject to all terms and conditions of this Agreement, including, without limitation Section 5.2 (Invoices) and Section 5.3 (Retention). The Department shall not be obligated to pay any other compensation, fees, expenses, costs, charges or other amounts to Vendor in connection with this Agreement. All fees and compensation payable hereunder to Vendor are not-to-exceed amounts. Vendor is not entitled to payment for any Deliverables provided under this Agreement if the Department reasonably determines that any Deliverables or services have not been satisfactorily or completely delivered or performed, or that any Deliverable fails to meet or conform to any applicable Specifications. No payment, including final payment, shall be construed as acceptance of any Deliverables with Deficiencies or incomplete work, and Vendor shall remain responsible for full performance in strict compliance with the terms and conditions of this Agreement. Vendor's acceptance of the last payment from the Department shall operate as a release of any and all claims related to this Agreement that Vendor may have or be capable of asserting against the Department or the State. No advance payments shall be made for any Deliverables provided by Vendor pursuant to this Agreement. All Sales are to be FOB Delivered, risk and title transfers upon delivery and acceptance. Payment Terms are Net 60 Days.

For Normal Hourly On-Site and/or Web-Based Services: \$ 100.00 base rate / hour, less 15% or \$ 85.00 per hour net.

Additional Discounts for Extended On-Site Deployment:

40 or more hours within one week:	\$ 75.00 per hour net.
160 or more hours within one month:	\$ 65.00 per hour net.
480 or more hours within three months or more:	\$ 55.00 per hour net.

Overtime shall not be charged without prior written approval by the Department. Ongoing maintenance and support is to be paid at the same hourly rate as detailed in this section on compensation.

5.2 Invoices. Upon receipt of Acceptance from the Department with respect to one or more Deliverables, or completion of services by Vendor, Vendor shall submit an invoice to the Department requesting payment of the fees or other compensation specified in Schedule A associated with such Deliverable(s) or such services, less the Retained Amount(s) to be withheld in accordance with Section 5.3. All invoices submitted by Vendor shall contain appropriate documentation as necessary to support the fees or charges included on the invoice and shall comply with all applicable rules concerning payment of such fees, charges or other claims and shall contain all information reasonably requested by the Department. The Department shall pay all approved invoices in arrears and in conformance with Iowa Code section 8A.514 and 11 Iowa Admin. Code 41.1(2). The Department may pay in less than sixty (60) days, as provided in Iowa Code section 8A.514.

However, an election to pay in less than sixty (60) days shall not act as an implied waiver of Iowa Code section 8A.514. Notwithstanding anything herein to the contrary, the Department shall have the right to dispute any invoice submitted for payment and withhold payment of any disputed amount if the Department believes the invoice is inaccurate or incorrect in any way.

5.3 Retention. To secure Vendor's performance under this Agreement, the Department may retain [__%] of the fees or other compensation associated with each Deliverable and payable hereunder shall be (the "Retained Amounts"). The Retained Amounts shall be payable upon [the Department's delivery of Final Acceptance to Vendor or the expiration of any applicable warranty period or state other event or timing for release, such as System turnover], subject to the terms and conditions hereof.

5.4 Erroneous Payments and Credits. Vendor shall promptly pay or refund to the Department the full amount of any overpayment or erroneous payment within ten (10) business days after either discovery by the Vendor or notification by the Department of the overpayment or erroneous payment. In the event Vendor fails to timely pay or refund any amounts due the Department under this section 5.4, the Department will charge interest of one percent (1%) per month compounded on the outstanding balance after the date payment or refund is due, or the maximum amount allowed by law, whichever is greater. The Department may, in its sole discretion, elect to have Vendor apply any amounts due to the Department under this Section 5.4 against any amounts payable by the Department under this Agreement [or the Software License Agreement].

5.5 Reimbursable Expenses. There shall be no reimbursable expenses associated with this Agreement separate from the compensation referred to in this section for any work performed in the Des Moines, Iowa Metro Area. Vendor shall be solely responsible for all costs, charges and expenses it incurs in connection with its performance under this Agreement, including, but not limited to, travel, mileage, meals, lodging, equipment, supplies, personnel, salaries, benefits, insurance, training, conferences, telephone, utilities, start-up costs, and all other costs and expenses of Vendor.

For work performed outside the Des Moines, Iowa Metro Area, Vendor may charge additional fees as outlined below:

Mileage: \$ 1.00 per mile plus meals and lodging (if any). See Below.

Mileage is as determined by MapQuest® computer mapping from vendor's headquarters (currently 9810 Quail Ridge, Urbandale, IA) to and from Department's Destination.

Meals and Lodging shall be in accordance with Department of Administrative Services - State Accounting Enterprise Policy 210.245 regarding in-state travels. http://das.sac.iowa.gov/images/acct_docs/Acct%20Word/210-245.doc

5.6 Set-off Against Sums Owed by Vendor. In the event that Vendor owes the Department or the State any sum under the terms of this Agreement, any other agreement, pursuant to a judgment, or pursuant to any law, the Department may set off such sum against any sum invoiced to the Department by Vendor in the Department's sole discretion unless otherwise required by law. Amounts due to the Department as liquidated damages or any other damages may be deducted by the Department without a judgment or any court action from any money or sum payable by the Department to Vendor pursuant to this Agreement or any other agreement between Vendor and the Department.

5.7 Withholding Payments. In addition to pursuing any other remedy provided herein or by law, the Department may withhold compensation or payments to Vendor, in whole or in part, without penalty to the Department or work stoppage by Vendor, in the event the Department determines that: (i) Vendor has failed to perform any of its duties or obligations as set forth in this Agreement [and/or the Software License Agreement]; or (ii) any Deliverable has failed to meet or conform to any applicable Specifications or contains or is experiencing a Deficiency. No interest shall accrue or be paid to Vendor on any compensation or other amounts withheld or retained by the Department under this Agreement.

5.8 Correction/Cure. The Department may correct any Deficiencies with respect to any Deliverable or cure any Vendor default under this Agreement without prejudice to any other remedy it may have if Vendor fails to correct such Deficiencies as required in this Agreement or if Vendor otherwise defaults or fails to perform any provision of the Agreement within the time period specified in a notice of default from the Department. The Department may provide or procure the services reasonably necessary to correct any Deficiencies or cure any Vendor default, in which event Vendor shall reimburse the Department for the actual costs incurred by the Department for such services (or for the reasonable value of the time expended by any Department or State employees who provide such services). In addition, Vendor shall cooperate with the Department or any Third Parties retained by the Department who assist in curing such default, including by allowing access to any pertinent materials or work product of Vendor.

5.9 Monitoring and Review. The Department shall monitor and review Vendor's performance under this Agreement to ensure compliance with this Agreement. Such review and monitoring shall include the Department's assessment of invoices and reports furnished by Vendor pursuant to this Agreement.

5.10 The Vendor is a registered reseller for Canon, Panasonic, Kodak, and Fujitsu scanners. The Vendor will provide scanners at the same 15% discount to the Manufacturer's recommended price list as on the Laserfiche software. Provision of scanners includes delivery, set up, connection to the client PC, and integration with Laserfiche software.

5.11 The Vendor offers the service of custom scanning of documents. This custom scanning is performed at 300 DPI in monochrome using the TIFF group 4 format. This is the "native" format for Laserfiche images. Color scanning will be performed at a 50% increase to the prices listed in this section. The scanning service involves scanning the documents, returning the paper documents and the images on a CD, DVD or other appropriate media, and installing the document images on the Vendee's PC. This service includes paper preparation, scanning the documents, proofing the scans for completeness and quality, applying a Laserfiche® template to the documents, and returning document images on DVD media. This does not include filling out indexing information in the template. Indexing services are available for an additional negotiated fee.

5.12 The cost per image is dependent on the page size of the original paper document. The base price is 10 cents per 300 DPI monochrome (black & white) TIFF image of a page 8.5" x 11" or smaller. Pages larger than 8.5" x 11" up to 8.5"x14" are priced at \$0.13 per monochrome image. Pages larger than 8.5" x 14" up to 11" x 18" are priced at \$0.18 per monochrome image. Pages larger than 11" x 18" are considered Large Format Documents. "C" size documents up to 18" x 24" are priced at \$2.75 per monochrome image. "D" size documents up to 24" x 36" are priced at \$3.75 per monochrome image. "E" size documents up to 36" x 48" are priced at \$4.75 per monochrome image. Documents with any dimension larger than 48" will be scanned at a negotiated price.

Section 6 Acceptance Tests, Project Management, Key Personnel and Liquidated Damages

6.1 Vendor shall commence and complete all work and provide all Deliverables in accordance with the deadlines, timelines, terms, conditions, Specifications and other requirements specified in this Agreement, including those which may be specified in the Statement of Work and the Project Plan.

6.2 All Deliverables shall be subject to the Department's Acceptance Testing and Acceptance, unless otherwise specified in the Statement of Work. Upon completion of all work to be performed by Vendor with respect to any Deliverable, Vendor shall deliver a written notice to the Department certifying that the Deliverable meets and conforms to applicable Specifications and is ready for the Department to conduct Acceptance Tests; provided, however, that Vendor shall pretest the Deliverable to determine that it meets and operates in accordance with applicable Specifications prior to delivering such notice to the Department. At the Department's request, Vendor shall assist the Department in performing Acceptance Tests at no additional cost to the Department. Within a reasonable period of time after the Department has completed its Acceptance Testing, the Department shall provide Vendor with written notice of Acceptance or Non-acceptance with respect to each Deliverable that was evaluated during such Acceptance Testing. If the Department determines that a Deliverable satisfies its Acceptance Tests, the Department shall provide Vendor with notice of Acceptance with respect to such Deliverable. If the Department determines that a Deliverable fails to satisfy its Acceptance Tests, the Department shall provide Vendor with notice of Non-acceptance with respect to such Deliverable. In the event the Department provides notice of Non-acceptance to Vendor with respect to any Deliverable, Vendor shall correct and repair such Deliverable and submit it to the Department within ten (10) days of Vendor's receipt of notice of Non-acceptance so that the Department may re-conduct its Acceptance Tests with respect to such Deliverable. In the event the Department determines, after re-conducting its Acceptance Tests with respect to any Deliverable that Vendor has attempted to correct or repair pursuant to this Section 6.2, that such Deliverable fails to satisfy its Acceptance Tests, then the Department shall have the continuing right, in its sole discretion to: (i) require Vendor to correct and repair such Deliverable within such period of time as the Department may specify in a written notice to Vendor, (ii) refuse to accept such Deliverable without penalty and without any obligation to pay any fees or other amounts associated with such Deliverable (or receive a refund of any fees or amounts already paid with respect to such Deliverable); (iii) accept such Deliverable on the condition that any fees or other amounts payable with respect thereto shall be reduced or discounted to reflect, to the Department's satisfaction, the Deficiencies present therein and any reduced value or functionality of such Deliverable or the costs likely to be incurred by the Department to correct such Deficiencies; or (iv) terminate this Agreement and/or seek any and all available remedies, including damages. Notwithstanding the provisions of Section 10 of this Agreement, the Department may terminate this Agreement pursuant to this Section 6.2 without providing Vendor with any notice or opportunity to cure provided for in Section 10. The Department's right to exercise the foregoing rights and remedies, including termination of this Agreement, shall remain in effect until Acceptance Tests are successfully completed to the Department's satisfaction. If the Department determines that all Deliverables satisfy its Acceptance Tests, the Department shall provide Vendor with notice of Final Acceptance with respect to such Deliverables. Vendor's receipt of any notice of Acceptance, including Final Acceptance, with respect to any Deliverable(s) shall not constitute or be construed as a waiver of any of the Department's rights to

enforce the terms of this Agreement or require performance in the event the Department identifies, at any time, any Deficiencies with respect to such Deliverable(s).

6.3 Project Management and Reporting.

6.3.1 Project Manager. At the time of execution of this Agreement, Vendor shall designate, in writing, a Project Manager acceptable to the Department to serve until the expiration of this Agreement. Vendor will assign a Project Manager of a management level sufficient to assure timely responses from all Vendor personnel, timely completion of tasks and achievement of milestones, and whose resume and qualifications will be reviewed and approved by the Department prior to her or his appointment as Vendor's Project Manager. Vendor represents that its Project Manager will be fully qualified to perform the tasks required of that position under this Agreement. Vendor's Project Manager shall be able to make binding decisions pursuant to this Agreement on behalf of and for Vendor. Any written commitment by Vendor's Project Manager and persons designated by her/him in writing for this purpose, within the scope of this Agreement, shall be binding upon Vendor. Vendor's Project Manager shall exercise her or his best efforts while performing under this Agreement. Vendor's Project Manager shall be at the Department's site as needed during the course of work under this Agreement and will be available either in person, by telephone or E-mail to respond promptly (in no event more than [2] hours after receipt of a request or inquiry from the Department) during the business day to inquiries from the Department.

6.3.2 Review Meetings. Commencing with performance of this Agreement, Vendor's Project Manager shall meet weekly with the Department's project manager and representatives, unless otherwise mutually agreed, to discuss progress made by the Vendor in the performance of this Agreement. Vendor's Project Manager shall provide a status report, listing any problem or concern encountered since the last meeting. Vendor shall maintain records of such reports and other communications issued in writing during the course of its performance under this Agreement.

6.3.3 Reports. At the next scheduled meeting after which any party has identified in writing a problem, the Vendor shall provide a report setting forth activities undertaken, or to be undertaken, to resolve the problem, together with the anticipated completion dates of such activities. Any party may recommend alternative courses of action or changes that will facilitate problem resolution. At a minimum, reports prepared by Vendor's Project Manager shall describe the previous week's activities, including problems encountered and their disposition, results of tests, whether or not deadlines were met, status of Deliverables, proposed changes to the Project Plan and any problems that may have arisen that need to be addressed before proceeding to the next activities. Vendor's proposed format and level of detail for its status reports shall be subject to the Department's approval.

6.3.4 Problem Reporting Omissions. The Department's receipt of acceptance of a problem report shall not relieve Vendor of any obligation under this Agreement or waive any other remedy under this Agreement or at law or equity that the Department may have. The Department's failure to identify the extent of a problem or Deficiency, or the extent of damages incurred as a result of a problem or Deficiency, shall not act as a waiver of performance under this Agreement.

6.3.5 Change Order Procedure. The Department may at any time request a modification to the Statement of Work using a change order. The following procedures for a change order shall be followed:

6.3.5.1 Written Request. The Department shall specify in writing the desired modifications to the same degree of specificity as in the original Statement of Work.

6.3.5.2 Vendor's Response. Vendor shall submit to the Department a firm time and cost proposal and any proposed modifications to the Project Plan for the requested change order within five (5) business days of receiving the Department's change order request.

6.3.5.3 Acceptance of Vendor's Estimate. If the Department accepts Vendor's proposal, Vendor shall perform the modified services subject to the firm time and cost proposals included in Vendor's response and subject to the terms and conditions of this Agreement.

6.4 Key Personnel. The Department considers [name project manager and any other key personnel of Vendor] from Vendor to be essential to a successful project. Vendor shall not remove, reassign or substitute the individual(s) identified in this section except in the event of death, illness, retirement, disability, or termination from employment, conditions permitting absence from employment under the Family and Medical Leave Act of 1993, or in the event of the Department's written consent. If at any time during the term of this Agreement, the Department becomes dissatisfied with the performance of any individual who is part of Vendor's personnel, the Department shall notify Vendor of the reasons for such dissatisfaction and may request the replacement of such individual. Vendor will promptly investigate such request and the reasons for such dissatisfaction and report back to the Department on the corrective action Vendor believes is

appropriate to address the Department's concerns and dissatisfaction. If the parties determine that such individual needs to be replaced, the replacement shall be effected promptly with a substitute individual having equal or greater ability, experience and qualifications than the departing individual.

6.5 Liquidated Damages. Vendor acknowledges and agrees that any delay or failure by Vendor to timely perform its obligations in accordance with this Agreement may delay and disrupt the Department's operations and may result in significant loss, expense and damages to the State. Furthermore, Vendor acknowledges and agrees that it may be extremely impractical and difficult to determine actual damages that the Department or the State may sustain. Vendor shall pay as liquidated damages \$ 25.00 a day for each and every day or portion thereof that Vendor fails to timely perform each Key Milestone (as defined in the Project Plan) in accordance with the Project Plan. The parties acknowledge and agree that Vendor could incur liquidated damages for more than one Key Milestone if Vendor fails to timely perform its obligations by each date.

6.5.1 The assessment of liquidated damages shall not constitute a waiver or release of any other remedy the Department may have for Vendor's breach of this Agreement, including the Department's right to terminate this Agreement, and shall be entitled in its discretion to recover actual damages caused by Vendor's failure to perform any of its obligations under this Agreement. However, the Department will reduce such actual damages by the amounts of any liquidated damages received for the same events causing the actual damages. The assessment of liquidated damages shall be in addition to and not in lieu of such other remedies as may be available to the Department. It is expressly agreed that the waiver of any liquidated damages due the Department shall constitute a waiver only as to such liquidated damages and not a waiver of any future liquidated damages. Any failure by the Department to demand liquidated damages within any period of time shall not constitute a waiver of such claim by the Department.

6.5.2 Amounts due the Department as liquidated damages may be deducted by the Department from any fees or other compensation payable to Vendor under this Agreement, or the Department may bill Vendor as a separate item therefore or otherwise request in writing Vendor's payment of liquidated damages assessed by the Department. Vendor shall promptly pay the Department any assessed liquidated damages, but in no event later than fifteen (15) days after the date of the Department's assessment or other written request for liquidated damages. At the Department's option, the Department may obtain payment of assessed liquidated damages through one (1) or more claims upon any performance bond furnished by Vendor.

Section 7 Term The term of this Agreement is for 36 months, unless terminated earlier in accordance with the terms of this Agreement. The effective date of the resulting contract shall be the date by which both parties had signed the agreement and shall expire one year following execution. At least thirty days prior to expiration, with the mutual consent of both parties, the contract may be renewed for another one year period to accommodate completion of all deliverables. The State reserves the option to renew as needed, not to exceed a total term of six years from date of original execution plus any transition period. If after 36 months the State exercises the option to renew for up to a total term of six years, then the reimbursement schedule must be renegotiated.

Section 8 Representations, Warranties and Covenants

8.1 Vendor represents and warrants that the Deliverables (in whole and in part) shall: (i) be free from material Deficiencies; and (ii) meet, conform to and operate in accordance with all Specifications and in accordance with this Agreement [during the term of this Agreement or for one year following the date [on which the Department provides notice of Final Acceptance or on which final implementation of the System is complete and the Department is running the System in live production or specify some other event which triggers commencement of the warranty period] (the "Warranty Period"). During the [term of this Agreement / Warranty Period], Vendor shall repair, correct or replace any Deliverable that contains or experiences material Deficiencies or fails to meet, conform to or operate in accordance with Specifications at no cost to the Department [within three (3) business days of or promptly upon] receiving notice of such Deficiencies or failures from the Department. In the event Vendor is unable to repair, correct or replace such Deliverable to the Department's satisfaction, Vendor shall refund the fees or other amounts paid for the Deliverables and for any services related thereto. The foregoing shall not constitute an exclusive remedy under this Agreement, and the Department shall be entitled to pursue any other available contractual, legal or equitable remedy.

8.2 Vendor represents and warrants that it is fully aware of the Department's business requirements and intended uses for the Deliverables as set forth in the RFP, and the Deliverables shall satisfy such requirements in all material respects and are fit for such intended uses.

8.3 Vendor represents and warrants that: (i) all Deliverables, other than Third Party Software used, shall be wholly original with and prepared solely by Vendor; (ii) it owns, possesses, holds, and has received or secured all rights, permits, permissions, licenses and authority necessary to provide the services and Deliverables to the Department hereunder and to assign, grant and convey the rights, benefits, licenses and other rights assigned, granted or conveyed to the

Department hereunder [and under the Software License Agreement] without violating any rights of any Third Party; and (iii) the Department shall peacefully and quietly have, hold, possess, use and enjoy the Deliverables without suit, disruption or interruption.

8.4 Vendor represents and warrants that: (i) the Deliverables (and all intellectual property rights therein and related thereto); and (ii) the Department's use of, and exercise of any rights with respect to, the Deliverables (and all intellectual property rights therein and related thereto), do not and shall not misappropriate a trade secret or infringe upon or violate any copyright, patent, trademark, trade dress or other intellectual property right, proprietary right or personal right of any Third Party. Vendor further represents and warrants there is no pending or threatened claim, litigation or action that is based on a claim of infringement or violation of an intellectual property right, proprietary right or personal right or misappropriation of a trade secret related to the Deliverables. Vendor shall inform the Department in writing immediately upon becoming aware of any actual, potential or threatened claim of or cause of action for infringement or violation of an intellectual property right, proprietary right, or personal right or misappropriation of a trade secret. If such a claim or cause of action arises or is likely to arise, then Vendor shall, at the Department's request: (i) procure for the Department the right or license to continue to use the Deliverable at issue; (ii) replace such Deliverable with a functionally equivalent or superior Deliverable free of any such infringement, violation or misappropriation; (iii) modify or replace the affected portion of the Deliverable with a functionally equivalent or superior Deliverable free of any such infringement, violation or misappropriation; or (iv) accept the return of the Deliverable at issue and refund to the Department all fees, charges and any other amounts paid by the Department under this Agreement [and the Software License Agreement] with respect to such Deliverable. In addition, Vendor agrees to indemnify, defend, protect and hold harmless the State and their officers, directors, employees, officials and agents as provided in the Indemnification section of this Agreement. The foregoing remedies shall be in addition to and not exclusive of other remedies available to the State and shall survive termination of this Agreement.

8.5 RESERVED

8.6 All warranties made by Vendor in this Agreement, whether or not this Agreement specifically denominates Vendor's promise as a warranty or whether the warranty is created only by Vendor's affirmation or promise, or is created by a description of the materials and services to be provided, or by provision of samples to the Department, shall not be construed as limiting or negating any warranty provided by law, including without limitation, warranties which arise through course of dealing or usage of trade. The warranties expressed in this Agreement are intended to modify the warranties implied by law only to the extent that they expand the warranties applicable to the goods and services provided by the Vendor.

8.7 Vendor represents, warrants and covenants that all services to be performed under this Agreement shall be performed in a professional, competent and workmanlike manner by knowledgeable, trained and qualified personnel, all in accordance with the terms and Specifications of this Agreement and the standards of performance considered generally acceptable in the industry for similar tasks and projects. In the absence of a Specification for the performance of any portion of this Agreement, the parties agree that the applicable specification shall be the generally accepted industry standard. So long as the Department notifies Vendor of any services performed in violation of this standard, Vendor shall re-perform the services at no cost to the Department, such that the services are rendered in the above-specified manner, or if the Vendor is unable to perform the services as warranted, Vendor shall reimburse the Department any fees or compensation paid to Vendor for the unsatisfactory services.

8.8 Vendor represents, warrants and covenants that it has complied with, and shall comply with, all applicable federal, state, foreign and local laws, rules, regulations, codes, and ordinances in connection with its performance under this Agreement [and the Software License Agreement].

8.9 Vendor represents, warrants and covenants that it has no interest and shall not acquire any direct or indirect interest that would conflict in any manner or degree with the performance of its obligations under this Agreement.

8.10 Vendor represents and warrants that the Deliverables will comply with any applicable federal, state foreign and local laws, rules, regulations, codes, and ordinances in effect during the term of this Agreement. [Vendor represents and warrants that the Deliverables will comply with applicable provisions of Section 508 of the Rehabilitation Act of 1973, as amended, and all standards and requirements established by the Architectural and Transportation Barriers Access Board and the Iowa Department of Administrative Services, Information Technology Enterprise.]

8.11 Vendor covenants that it will comply with and adhere to all Department and State information technology standards, including, without limitation, all technical and security standards, procedures and protocols, and that Vendor will take all precautions necessary to prevent unauthorized access to the Department's and the State's systems, networks, computers, property, records, data, and information.

Section 9 Indemnification

9.1 Vendor and its successors and permitted assigns shall defend, protect, indemnify and hold harmless the Department, the State and their employees, officers, board members, agents, representatives, and officials ("Indemnitees") from and against any and all claims, actions, suits, liabilities, damages, losses, settlements, demands, deficiencies, judgments, costs and expenses (including, without limitation, the reasonable value of time of the Attorney General's Office and the costs, expenses and attorney fees of other counsel retained by any Indemnitee) directly related to, resulting from, or arising out of this Agreement, including but not limited to any claims related to, resulting from, or arising out of:

9.1.1 Any violation or breach of any term or condition of this Agreement by or on behalf of Vendor, including, the furnishing or making by Vendor of any statement, representation, warranty or certification in connection with this Agreement, the RFP or the Proposal that is false, deceptive, or materially incorrect or incomplete; or

9.1.2 Any act or omissions of Vendor, including, without limitation, any negligent acts or omissions, intentional or willful misconduct, or unlawful acts of Vendor, its officers, employees, agents, board members, subsidiaries, affiliates, contractors or subcontractors; or

9.1.3 Vendor's performance or attempted performance of this Agreement; or

9.1.4 Failure by Vendor or its employees, agents, officers, directors, subsidiaries, affiliates, contractors or subcontractors to comply with all applicable local, state, federal and international laws, rules, ordinances and regulations; or

9.1.5 Any failure by Vendor or its employees, agents, officers, directors, contractors or subcontractors to make all reports, payments and withholdings required by Federal and state law with respect to Social Security, worker's compensation, employee income and other taxes, fees or costs required by the Vendor to conduct business in the State; or

9.1.6 Any alleged or actual misappropriation of a trade secret or infringement or violation of any intellectual property rights, proprietary rights or personal rights of any Third Party, including any patents, trademarks, trade dress, trade secrets, or copyrights of a Third Party.

9.2 Vendor's duties as set forth in this Section 9 shall survive the termination of this Agreement and shall apply to all acts or omissions taken or made in connection with the performance of this Agreement regardless of the date any potential claim is made or discovered by the Department or any other Indemnitee.

9.3 The Department will reasonably cooperate with Vendor to facilitate the defense of any action defended by Vendor. The Department reserves the right to participate in the defense of any such action.

9.4 Vendor shall be liable for any personal injury or damage to property caused by the fault or negligence of Vendor, its officers, directors, employees, agents and approved contractors or subcontractors.

Section 10 Default and Termination

10.1 Termination for Cause by the Department. The Department may terminate this Agreement upon written notice for the breach by Vendor of any material term, condition or provision of this Agreement, if such breach is not cured within the time period specified in the Department's notice of breach or any subsequent notice or correspondence delivered by the Department to Vendor, provided that cure is feasible. Any time allowed for cure of a default shall not eliminate or reduce any liability Vendor may have for liquidated damages. In addition, the Department may terminate this Agreement effective immediately without penalty and without advance notice or opportunity to cure for any of the following reasons:

10.1.1 Vendor furnished any statement, representation, warranty or certification in connection with this Agreement, [the Software License Agreement,] the RFP or the Proposal that is false, deceptive, or materially incorrect or incomplete;

10.1.2 Vendor or any of Vendor's officers, directors, employees, agents, subsidiaries, affiliates, contractors or subcontractors has committed or engaged in fraud, misappropriation, embezzlement, malfeasance, misfeasance, or bad faith;

10.1.3 Dissolution of Vendor or any parent or affiliate of Vendor owning a controlling interest in Vendor;

10.1.4 Vendor terminates or suspends its business;

10.1.5 Vendor's corporate existence or good standing in Iowa is suspended, terminated, revoked or forfeited;

10.1.6 Vendor has failed to comply with any applicable international, federal, state, or local laws, rules, ordinances, regulations or orders when performing within the scope of this Agreement;

- 10.1.7 The Department determines or believes the Vendor has engaged in conduct that has or may expose the Department or the State to material liability;
- 10.1.8 Vendor infringes or violates any patent, trademark, copyright, trade dress or any other intellectual property right or proprietary right, or Vendor misappropriates a trade secret; or
- 10.1.9 Any of the following has been engaged in by or occurred with respect to Vendor or any corporation, shareholder or entity having or owning a controlling interest in Vendor:
 - 10.1.9.1 Commencing or permitting a filing against it which isn't discharged within ninety (90) days, of a case or other proceeding seeking liquidation, reorganization, or other relief with respect to itself or its debts under any bankruptcy, insolvency, or other similar law now or hereafter in effect; or filing an answer admitting the material allegations of a petition filed against it in any involuntary case or other proceeding commenced against it seeking liquidation, reorganization, or other relief under any bankruptcy, insolvency, or other similar law now or hereafter in effect with respect to it or its debts; or consenting to any such relief or to the appointment of or taking possession by any such official in any voluntary case or other proceeding commenced against it seeking liquidation, reorganization, or other relief under any bankruptcy, insolvency, or other similar law now or hereafter in effect with respect to it or its debts;
 - 10.1.9.2 Seeking or suffering the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its assets;
 - 10.1.9.3 Making an assignment for the benefit of creditors;
 - 10.1.9.4 Failing, being unable, or admitting in writing the inability generally to pay its debts or obligations as they become due or failing to maintain a positive net worth and such additional capital and liquidity as is reasonably adequate or necessary in connection with Vendor's performance of its obligations under this Agreement [or the Software License Agreement]; or
 - 10.1.9.5 Taking any action to authorize any of the foregoing.

The Department's right to terminate this Agreement shall be in addition to and not exclusive of other remedies available to the Department.

10.2 Termination for Convenience. Following thirty (30) days written notice, the Department may terminate this Agreement in whole or in part for convenience without the payment of any penalty or incurring any further obligation to Vendor. Termination for convenience can be for any reason or no reason at all.

10.3 Termination Due to Lack of Funds or Change in Law. Notwithstanding anything in this Agreement to the contrary, and subject to the limitations set forth below, the Department shall have the right to terminate this Agreement without penalty and without any advance notice as a result of any of the following:

10.3.1 The legislature or governor fail in the sole opinion of the Department to appropriate funds sufficient to allow the Department to either meet its obligations under this Agreement or to operate as required and to fulfill its obligations under this Agreement; or

10.3.2 If funds are de-appropriated, reduced, not allocated, or receipt of funds is delayed, or if any funds or revenues needed by the Department to make any payment hereunder [or under the Software License Agreement] are insufficient or unavailable for any other reason as determined by the Department in its sole discretion; or

10.3.3 If the Department's authorization to conduct its business or engage in activities or operations related to the subject matter of this Agreement is withdrawn or materially altered or modified; or

10.3.4 If the Department's duties, programs or responsibilities are modified or materially altered; or

10.3.5 If there is a decision of any court, administrative law judge or an arbitration panel or any law, rule, regulation or order is enacted, promulgated or issued that materially or adversely affects the Department's ability to fulfill any of its obligations under this Agreement or the operation of the System.

The Department shall provide Vendor with written notice of termination pursuant to this section.

10.4 Limitation of the State's Payment Obligations. In the event of termination of this Agreement for any reason by either party (except for termination by the Department pursuant to Section 10.1), the Department shall pay only those

amounts, if any, due and owing to Vendor for [Deliverables for which Acceptance has been provided by the Department] [or for services actually and satisfactorily rendered] up to and including the date of termination of this Agreement and for which the Department is obligated to pay pursuant to this Agreement. Payment will be made only upon submission of invoices and proper proof of Vendor's claim. Notwithstanding the foregoing, this Section 10.4 in no way limits the rights or remedies available to the State of Iowa and shall not be construed to require the Department to pay any compensation or other amounts hereunder [or under the Software License Agreement] in the event of Vendor's breach of this Agreement [or the Software License Agreement] or any amounts withheld by the Department in accordance with the terms of this Agreement. The Department shall not be liable, under any circumstances, for any of the following:

10.4.1 The payment of unemployment compensation to Vendor's employees;

10.4.2 The payment of workers' compensation claims, which occur during the Agreement or extend beyond the date on which the Agreement terminates;

10.4.3 Any costs incurred by Vendor in its performance of the Agreement, including, but not limited to, startup costs, overhead or other costs associated with the performance of the Agreement [and/or the Software License Agreement];

10.4.4 Any damages or other amounts, including amounts associated with the loss of prospective profits, anticipated sales, goodwill, or for expenditures, investments or commitments made in connection with this Agreement [or the Software License Agreement];

10.4.5 Any taxes Vendor may owe in connection with the performance of this Agreement [or the Software License Agreement], including, but not limited to, sales taxes, excise taxes, use taxes, income taxes or property taxes.

10.5 Vendor's Termination Duties. Upon receipt of notice of termination or upon request of the Department, Vendor shall:

10.5.1 Cease work under this Agreement and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work performed under the Agreement and such other matters as the Department may require.

10.5.2 Immediately cease using and return to the Department any property (including, without limitation, Department Property) or materials, whether tangible or intangible, provided by the Department to Vendor.

10.5.3 Cooperate in good faith with the State of Iowa and its employees, agents and independent contractors during the transition period between the notification of termination and the substitution of any replacement service provider.

10.5.4 Immediately return to the Department any payments made by the Department for services or Deliverables that were not rendered or provided by Vendor.

10.6 Termination for Cause by Vendor. Vendor may only terminate this Agreement upon written notice for the breach by the Department of any material term, condition or provision of this Agreement, if such breach is not cured within sixty (60) days of the Department's receipt of Vendor's written notice of breach.

Section 11 Insurance.

11.1 Insurance Policies. Vendor shall maintain in full force and effect, with insurance companies of recognized responsibility, at its expense, insurance covering its work of the type and in amounts required by this Agreement. Vendor's insurance shall, among other things, insure against loss or damage resulting from Vendor's performance of this Agreement and shall be subject to the approval of the Department. All such insurance policies shall remain in full force and effect for the entire term of this Agreement and shall not be canceled or changed without the Department's prior written consent.

Unless otherwise requested by the Department, Vendor shall, at its sole cost, cause to be issued and maintained in effect during the entire term of this Agreement not less than the insurance coverage set forth below each naming the State of Iowa as an additional insured or loss payee, as applicable:

Type of Insurance	LIMIT	AMOUNT
General Liability (including contractual liability) written on an occurrence basis	General Aggregate	\$5 million
	Prod./Comp. Aggregate	\$1 million
	Personal injury	\$1 million
	Each Occurrence	\$1 million
Excess Liability, umbrella form	Each Occurrence	\$1 million

	Aggregate	\$2 million
Errors and Omissions Insurance	Each Occurrence	\$2 million
Property Damage	Each Occurrence	\$1 million
	Aggregate	\$2 million
Workers Compensation and Employer Liability	As Required by Iowa law	

11.2 Claims Provision. All insurance policies required by this Agreement must provide coverage for all claims arising from activities occurring during the term of the policy regardless of the date the claim is filed or expiration of the policy.

11.3 Certificates of Coverage. Certificates of the insurance described above shall be submitted to the Department within thirty (30) days after the effective date of this Agreement and shall be subject to approval by the Department. Vendor shall provide certificates for the coverage required. The insurer shall state in the certificate that no cancellation of the insurance will be made without at least thirty (30) days prior written notice to the Department.

11.4 No Limitation of Liability. Acceptance of the insurance certificates by the Department shall not act to relieve Vendor of any obligation under this Agreement. It shall be the responsibility of Vendor to keep the respective insurance policies and coverages current and in force during the life of this Agreement. Vendor shall be responsible for all premiums, deductibles and for any inadequacy, absence or limitation of coverage, and the Vendor shall have no claim or other recourse against the State or the Department for any costs or loss attributable to any of the foregoing, all of which shall be borne solely by the Vendor. Notwithstanding any other provision of this Agreement, Vendor shall be fully responsible and liable for meeting and fulfilling all of its obligations under Section 11 of this Agreement.

Vendor and any approved subcontractor agrees to: (1) unlimited liability for breach of contract, breach of warranty, misrepresentation, bad faith, fraud, indemnity, tort, negligence, gross negligence, strict liability, or any other claim or cause of action; (2) unlimited liability for any type of damages or loss, including, without limitation, consequential, indirect, incidental, special, and exemplary damages; (3) to no limit or cap on total liability (e.g., a liability cap or ceiling equal to the value of the contract or a multiple thereof); (4) unlimited rights or remedies of the state; and (5) not to disclaim any representations, warranties, conditions or guarantees, whether express or implied, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose, non-infringement, title and any warranties arising by statute or out of course of dealing, course of performance or usage of trade.

11.5 Warranty. Vendor warrants that it has examined its insurance coverage to determine whether the State can be named as additional insureds without creating an adverse effect on Vendor's coverage.

11.6 Waiver of Subrogation Rights. Vendor shall obtain a waiver of any subrogation rights that any of its insurance carriers might have against the Department or the State. The waiver of subrogation rights shall be indicated on the certificates of insurance coverage supplied to the Department.

Section 12 Contract Administration

12.1 Independent Contractor. Vendor is an independent contractor performing services for the Department. Vendor shall not hold itself out as an employee or agent of the Department. The Department shall not provide Vendor with office space, support staff, equipment or tools, or supervision beyond the terms of this Agreement. Neither Vendor nor any of its staff are eligible for any State employee benefits, including, but not limited to, retirement benefits, insurance coverage or the like. Vendor and its staff shall not be considered employees of the Department or the State for any purpose, including for federal or State tax purposes. The Department shall not withhold taxes on behalf of Vendor. Vendor shall be responsible for payment of all taxes in connection with any income earned from performing this Agreement.

12.2 Compliance with the Law and Regulations.

12.2.1 Vendor and its employees, agents, officers, directors, approved contractors and subcontractors shall comply with all applicable federal, state, international, and local laws, rules, ordinances, codes, regulations and orders when performing within the scope of this Agreement, including without limitation, all laws applicable to the prevention of discrimination in employment, the administrative rules of the Iowa Department of Management and the Iowa Civil Rights Commission which pertain to equal employment opportunity and affirmative action, laws relating to prevailing wages, occupational safety and health standards, prevention of discrimination in employment, payment of taxes, gift laws, lobbying laws, and laws relating to the use of targeted small businesses as subcontractors or suppliers. Vendor shall comply with any applicable reporting and compliance standards of the Department of Management regarding equal employment. Vendor may be required to submit its affirmative action plan to the Department of Management to comply with the requirements of 541 Iowa Admin. Code Chapter 4. Vendor shall make the

provisions of this section a part of its contracts with any approved subcontractors providing goods or services related to Vendor's performance of this Agreement.

12.2.2 Vendor shall give notice to any labor union with which it has a bargaining or other agreement of its commitment under this section of the Agreement. Vendor shall make the provisions of this section a part of its contracts with any approved subcontractors providing goods or services related to the fulfillment or performance of this Agreement.

12.2.3 The Department may consider the failure of Vendor to comply with any law or regulation as a material breach of this Agreement.

12.3 Confidentiality. Vendor and its employees, agents, approved contractors and subcontractors may have access to Confidential Information, data, software, hardware, programs or other information or property possessed, owned or maintained by the Department or the State ("Department Property") to the extent necessary to carry out its responsibilities under the Agreement. Such Department Property shall at all times remain the property of the State. Vendor shall preserve the confidentiality of Department Property disclosed or furnished by the Department to Vendor and shall maintain procedures for safeguarding such property. Vendor must designate one individual who shall remain the responsible authority in charge of all Department Property collected, used, or disseminated by Vendor in connection with the performance of this Agreement. Vendor shall accept responsibility for providing adequate supervision and training to its agents, employees and any approved contractors and subcontractors to ensure compliance with the terms of this Agreement. Vendor and its employees, agents, and any approved contractors or subcontractors may be required by the Department to execute confidentiality or non-disclosure agreements to obtain access to certain Department Property.

Vendor and its employees, agents, approved contractors and subcontractors shall not disclose, publish, reproduce, disseminate or otherwise use any Department Property received, collected, maintained, or used in the course of performance of the Agreement except as permitted by the Department to enable Vendor to perform its obligations under this Agreement and except as required by applicable laws, rules or regulations, either during the term of this Agreement or thereafter. Vendor agrees to return any and all Department Property received, collected, accessed, maintained, created, or used in the course of the performance of the Agreement in whatever form it is maintained promptly at the request of the Department. In the event that Vendor receives a request for access to any Department Property, Vendor shall immediately communicate such request to the Department for consideration and handling.

Vendor shall indemnify the Department, the State and all other Indemnitees in the manner provided for indemnification elsewhere in this Agreement for a violation of this section. In the event of a breach of this section, the Department may terminate this Agreement immediately without notice of default and opportunity to cure. Vendor's obligations under this section shall survive expiration or termination of this Agreement.

12.4 Amendments. This Agreement may be amended in writing from time to time by mutual consent of the parties. Both parties must execute all amendments to this Agreement.

12.5 Third Party Rights. No person other than the parties hereto, their respective successors and permitted assigns, the State and Governmental Entities may rely on or derive any rights pursuant to or under this Agreement. This Agreement is intended to benefit only the Department, the State, Governmental Entities and the Vendor.

12.6 Choice of Law and Forum.

12.6.1 This Agreement shall be governed in all respects by, and construed in accordance with, the laws of the state of Iowa, without giving effect to the choice of law principles thereof. .

12.6.2 Any and all litigation or actions commenced in connection with this Agreement, including after expiration or termination of this Agreement, shall be brought in Des Moines, Iowa, in Polk County District Court for the State of Iowa, if jurisdiction is proper. However, if jurisdiction is not proper in the Iowa District Court for Polk County, but is proper only in a United States District Court, the matter shall be commenced in the United States District Court for the Southern District of Iowa, Central Division. Vendor irrevocably: (i) consents and agrees that any legal or equitable action or proceeding arising under, in connection with or arising out of this Agreement shall be brought and maintained exclusively in the aforesaid courts; and (ii) submits to and accepts, with respect to any such action or proceeding, for it and in respect of its properties and assets regardless of the physical or legal situs thereof, generally and unconditionally, the jurisdiction of the aforesaid courts.

12.6.3 This provision shall not be construed as waiving any immunity to suit or liability, in state or federal court, which may be available to the Department or the State.

12.6.4 Vendor irrevocably consents to service of process by certified or registered mail addressed to the Vendor's designated agent. The Vendor appoints [name] at [address] Des Moines, Iowa, as its agent to

receive service of process. If for any reason the Vendor's agent for service is unable to act as such or the address of the agent changes, Vendor shall immediately appoint a new agent and provide the Department with written notice of the change in agent or address. Any change in the appointment of the agent or address will be effective only upon actual receipt by the Department. Nothing in this provision will alter the right of the Department to serve process in any other manner permitted by law.

12.6.5 This Section 12.6 shall survive termination of this Agreement.

12.7 Assignment and Delegation. This Agreement may not be assigned, transferred or conveyed in whole or in part without the prior written consent of the other party, except that the Department may assign this Agreement to any State agency or unit of State government that succeeds the Department's duties hereunder or otherwise assumes responsibility for functions or duties currently assumed by the Department to which the Deliverables relate. For purposes of construing this clause, a transfer of a controlling interest in Vendor, a merger, sale or consolidation of Vendor, or a sale of substantially all of Vendor's assets shall be considered an assignment. Vendor agrees that it shall provide the Department with the earliest possible advance notice of any proposed sale or transfer or any controlling interest in or substantial assets of Vendor and of any proposed merger, sale or consolidation of Vendor. Vendor agrees that it shall not use this Agreement, or any portion thereof, for collateral or to otherwise secure any financial obligation of Vendor or any affiliate thereof without the prior written consent of the Department.

12.8 Use of Third Parties. None of the services to be provided by Vendor pursuant to this Agreement shall be subcontracted or delegated to any Third Party without the prior written consent of the Department. The Department's consent shall not be deemed in any way to provide for the incurrence of any additional obligation of the Department, whether financial or otherwise. Any subcontract to which the Department has consented shall be in writing and shall in no way alter the terms and conditions of this Agreement. All subcontracts shall be subject to the terms and conditions of this Agreement and to any conditions of approval that the Department may deem necessary. Vendor is solely liable for any and all payments that may be due to a subcontractor pursuant to any subcontract. Vendor shall indemnify, defend and hold harmless the State from and against any and all claims, demands, liabilities, suits, actions, damages, losses, costs and expenses of every kind and nature whatsoever arising as a result of Vendor's breach of any subcontract into which it enters, including Vendor's failure to pay any and all amounts due to any subcontractor. All subcontracts shall contain provisions for the Department access to the subcontractor's books, documents, and records and for inspections of work, as required of Vendor herein. No subcontract or delegation of work shall relieve or discharge Vendor from any obligation, provision, or liability under this Agreement. Vendor shall remain responsible for such performance and shall be fully responsible and liable for all acts or omissions of any such contractor or subcontractor. Any action of a subcontractor, which, if done by Vendor, would constitute a breach of this Agreement, shall be deemed a breach by Vendor and have the same legal effect.

12.9 Integration. This Agreement [and the Software License Agreement] represents the entire Agreement between the parties concerning the subject matter hereof, and neither party is relying on any representation that may have been made which is not included in this Agreement [or the Software License Agreement.] The Department shall not be bound by any "shrink-wrap" agreement, "click-wrap" agreement, or "sneakwrap" agreement (or any other similar agreement) that may accompany or relate to a Deliverable. This does not affect any Third Party Licensing Agreement. Vendor acknowledges that it has thoroughly read this Agreement and all related schedules, exhibits, and other documents and has had the opportunity to receive competent advice and counsel necessary for it to form a complete understanding of all rights and obligations herein and to accept same freely and without coercion of any kind. Accordingly, this Agreement shall not be construed or interpreted against the Department on the basis of draftsmanship or preparation thereof.

12.10 Obligation Beyond Agreement Term. This Agreement shall remain in full force and effect to the end of the specified term or until terminated or canceled pursuant to this Agreement. Vendor's obligations under this Agreement which by their nature would continue beyond the termination of this Agreement, including, by way of illustration and not by limitation, those obligations set forth in Sections 4.1, 5.1 - 5.4, 5.6 - 5.82, 8.1 - 8.11, 9.1 - 9.4, 10.4 - 10.7, 11, 12.2, 12.3, 12.6, 12.8, 12.10 - 12.15, 12.19, 12.24, 12.28, 12.30, 12.32, 12.33, and 12.38 - 12.40 shall survive termination of this Agreement and/or termination of Support.

12.11 Supersedes Former Agreements. This Agreement supersedes all prior Agreements between the State of Iowa and Vendor for the goods and services provided in connection with this Agreement, [except for the Software License Agreement.]

12.12 Waiver. Except as specifically provided for in a waiver signed by duly authorized representatives of the State of Iowa and Vendor, failure by either party at any time to require performance by the other party or to claim a breach of any provision of this Agreement shall not be construed as affecting any subsequent breach or the right to require performance with respect thereto or to claim a breach with respect thereto. No term or condition of this Agreement shall be held to be waived, modified, or deleted except by an instrument, in writing, signed by the parties hereto.

12.13 Notices

12.13.1 Notices under this Agreement shall be in writing and delivered to the representative of the party to receive notice (identified below) at the address of the party to receive notice as it appears below or as otherwise provided for by proper notice hereunder. The effective date for any notice under this Agreement shall be the date of delivery of such notice (not the date of mailing) which may be effected by certified U.S. Mail return receipt requested with postage prepaid thereon or by recognized overnight delivery service, such as Federal Express or UPS:

If to the State of Iowa: Ashley Super, PA III, Iowa Department of Administrative Services, GSE Purchasing
Hoover State Office Building, Level A, Des Moines, IA 50319-0105; Fax: 515-242-5974

If to Vendor: Dr. Samuel W. Warren, ED.D. Pres., Paper Free Technology, Inc., 9810 Quail Ridge,
Urbandale, IA 50322-1393; Fax: 515-253-9251

12.13.2 Any notice or communication sent by certified U.S. Mail under this Agreement shall be deemed given upon receipt as evidenced by the U.S. Postal Service return receipt card, or if sent by overnight delivery service, upon receipt as evidenced by the signature attained by the carrier.

12.13.3 From time to time, the parties may change the name and address of a party designated to receive notice. Such change of the designated person shall be in writing to the other party and as provided herein.

12.14 Cumulative Rights. The various rights, powers, options, elections and remedies of the State provided in this Agreement shall be construed as cumulative and no one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed the State by law, and shall in no way affect or impair the right of the Department or the State to pursue any other contractual, equitable or legal remedy to which the State may be entitled as long as any default remains in any way unremedied, unsatisfied, or un-discharged. The election by the Department or the State of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies.

12.15 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this Agreement.

12.16 Time is of the Essence. Time is of the essence with respect to Vendor's performance of its obligations under this Agreement. Vendor shall ensure that all personnel providing services to the Department are responsive to the Department's requirements and requests in all respects.

12.17 Authorization. Vendor represents and warrants that it has the right, power and authority to enter into and perform its obligations under this Agreement and that it has taken all requisite action (corporate, statutory, or otherwise) to approve execution, delivery and performance of this Agreement, and this Agreement constitutes a legal, valid and binding obligation of Vendor, enforceable in accordance with its terms.

12.18 Successors in Interest. All the terms, provisions, and conditions of the Agreement shall be binding upon and inure to the benefit of the parties' hereto and their respective successors, assigns, and legal representatives.

12.19 Records Retention and Access. Vendor shall maintain books, documents and records that sufficiently and properly document Vendor's performance under this Agreement, including records that document all fees and other amounts charged during the term of this Agreement, for a period of at least five (5) years following the later of the date of final payment, termination or expiration of this Agreement, or the completion of any required audit. Vendor shall permit the Auditor of the State of Iowa or any authorized representative of the State, and where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government, at no charge, to access and examine, audit, excerpt and transcribe any pertinent books, documents, electronic or optically stored and created records or other records of Vendor relating directly or indirectly to Vendor's performance under this Agreement. Vendor shall not impose a charge or seek payment for any fee, charge, or expense associated with any audit or examination of such books, documents and records. Vendor shall require its subcontractors to agree to the same provisions of this section.

12.20 Headings or Captions and Terms. The section headings or captions are for identification purposes only and do not limit or construe the contents of the sections. Unless the context of this Agreement otherwise clearly requires, references to the plural include the singular, references to the singular include the plural, and the word "or" has the inclusive meaning represented by the phrase "and/or." The words "include" and "including" shall be deemed to be followed by the phrase "without limitation." The words "thereof," "herein," "hereunder," and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement.

12.21 Multiple Counterparts. This agreement shall be executed in two or more counterparts, any one of which shall be an original without reference to the others.

12.22 Not a Joint Venture. Nothing in this Agreement shall be construed as creating or constituting the relationship of the partnership, joint venture (or other association of any kind or agent/principal relationship) between the parties hereto. Each party shall be deemed an independent contractor contracting for services and acting toward the mutual benefits expected to be derived herefrom. No party, unless otherwise specifically provided for herein, has the authority to enter into any agreement or create an obligation or liability on behalf of, in the name of, or binding upon, another party to this Agreement.

12.23 Additional Provisions. The parties agree that if an Addendum, Rider, Schedule, Appendix or Exhibit is attached hereto by the parties, and referred to herein, then the same shall be deemed incorporated herein by reference.

12.24 Further Assurances and Corrective Instruments. The parties agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of this Agreement.

12.25 Obligations of Joint Entities. If Vendor is a joint entity, consisting of more than one individual, partnership, corporation or other business organization, all such entities shall be jointly and severally liable for carrying out the activities and obligations of this agreement, and for any default of such activities and obligations.

12.26 Force Majeure.

12.26.1 Neither Vendor nor the Department shall be liable to the other for any delay or failure of performance of this Agreement, and no delay or failure of performance shall constitute a default or give rise to any liability for damages if, and only to the extent that, such delay or failure is caused by a "force majeure" and not as a result of the fault or negligence of a party.

12.26.2 As used in this Agreement, "force majeure" includes acts of God, war, civil disturbance and any other causes which are beyond the control and anticipation of the party effected and which, by the exercise of reasonable diligence, the party was unable to anticipate or prevent. Failure to perform by a subcontractor or an agent of Vendor shall not be considered a "force majeure" unless the subcontractor or supplier is prevented from timely performance by a "force majeure" as defined in this Agreement. "Force Majeure" does not include financial difficulties of Vendor or any parent, subsidiary, affiliated or associated company of Vendor or claims or court orders that restrict Vendor's ability to deliver the goods or services contemplated by this Agreement.

12.26.3 If a "force majeure" delays or prevents Vendor's performance, Vendor shall immediately commence to use its best efforts to directly provide alternate, and to the extent possible, comparable performance. Comparability of performance and the possibility of comparable performance shall be reasonably determined solely by the Department.

12.27 Material Breaches. The references in this Agreement to specific material breaches of this Agreement shall not be construed as implying that other breaches of this Agreement are not material.

12.28 Right of Inspection. Vendor shall allow the Department, or anyone designated by the Department, to inspect its facilities and books and records at all reasonable times in order to monitor and evaluate performance of this Agreement.

12.29 Taxes. Vendor shall be responsible for paying any taxes incurred by Vendor in the performance of this Agreement. the State are exempt from the payment of State sales and other taxes.

12.30 Title to Property. Title to all property (including Department Property) furnished by the State to Vendor to facilitate the performance of this Agreement shall remain the sole property of the State. All such property shall only be used by Vendor for purposes of fulfilling its obligations under this Agreement and shall be returned to the Department upon the earliest of completion, termination, or cancellation of this Agreement or at the Department's request. Vendor acknowledges that it shall acquire no interest or rights in and to such property. Except as expressly provided in this Agreement, Vendor shall not disclose or use such property for any purpose, including pledging or encumbering it, selling or using it for monetary gain, using it to compile mailing lists, solicit business or pursue other business activities, or otherwise. Title to all property purchased by Vendor, for which Vendor has been reimbursed or paid by the Department under this Agreement, shall pass to and vest in the State, except as otherwise provided in this Agreement.

12.31 Exclusivity. This Agreement is not exclusive. During the term of this Agreement, the Department may obtain similar services from other service providers.

12.32 Award of Related Agreements. The Department may undertake or award supplemental or successor agreements for work related to this Agreement. Vendor shall cooperate fully with other contractors, consultants and other persons who may be engaged by the Department or the State in connection with this Agreement. Vendor will ensure that any of its contractors or subcontractors that have been approved by the Department will abide by this provision.

12.33 Sovereign Immunity. The State does not waive sovereign immunity by entering into this Agreement and specifically retain and reserve the defense of sovereign immunity and all defenses available to them under State and federal laws, rules and regulations for any claim arising out of or related to this Agreement.

12.34 Hardware and Equipment. In the event that any hardware and other equipment owned by Vendor and used in connection with this Agreement are subject to the security interest or a legal or equitable interest by a Third Party, Vendor shall insure in any such transactions that the Department shall be notified of a default occurring under the instrument and if Vendor does not cure the default within the time allowed, the Department may, in its sole discretion, cure the default by Vendor and assess or set off all costs associated with affecting cure, including but not limited to, the amount in default and reasonable attorneys fees against Vendor.

12.35 Disclaimer. All information contained in the RFP and any appendices or attachments thereto reflect the information available to the Department at the time the above cited documents were prepared. The Department does not warrant the accuracy of any such information and shall not be liable for any errors or omissions, or the results of errors or omissions, which may be discovered, at any time, to exist in those documents.

12.36 Procurement by other Governmental Entities. Vendor acknowledges and agrees that other State agencies, departments, boards, commissions, establishments, units and other governmental entities (as defined in Iowa Code Section 8A.101) may procure services and Deliverables from Vendor under this Agreement.

12.37 Assignment of Third Party Warranties. Vendor hereby assigns and shall assign to the Department any and all existing and future warranties, indemnities and other benefits obtained or available from the licensor of any Third Party software if the licensing agreement from the Third Party allows for such an assignment, or the manufacturer of any equipment or replacement parts provided or otherwise furnished in connection with this Agreement.

12.38 Attorney's Fees and Expenses. Subject to the other terms and conditions of this Agreement, in the event Vendor defaults in any obligations under this Agreement, Vendor shall pay to the Department all costs and expenses (including, without limitation, the reasonable value of time of the Attorney General's Office and the costs, expenses and attorney fees of other counsel retained by or on behalf of the Department) incurred by the Department in enforcing this Agreement or any of its rights and remedies with respect thereto.

12.39 Contract Compliance Audit. Vendor agrees that the Department or a representative of its selection may conduct a complete contract compliance audit at least once annually during the term of this Agreement and after termination or expiration of this Agreement to determine whether or not the Vendor is complying with the terms of this Agreement, criteria established for access to Department Property, State and federal laws regarding Confidential Information, and any other applicable laws and regulations. Vendor shall promptly comply with and correct any deficiencies noted in the audit report as audit exceptions and will promptly implement any recommendations reasonably requested by the Department or its representatives. Vendor shall not impose any charge or fee in connection with any contract compliance audit.

12.40 Care of Property. Vendor shall be responsible for the proper custody and care of any property, data, databases, software, interfaces, hardware, telecommunications lines and equipment, intellectual property and Department Property furnished by the Department for Vendor's use in connection with the performance of the Agreement. Vendor shall exercise its best efforts to prevent damage to all such property and shall, at the Department request, restore damaged property to the extent possible to its condition prior to the damage at the sole expense of Vendor. Such restoration shall be complete when judged satisfactory by the Department. In addition, at the Department's request, Vendor will reimburse the Department for any loss or damage to such property caused by Vendor, or any agent, contractor or subcontractor employed or utilized by Vendor. Vendor shall not take any action that would impair the value of, or goodwill associated with, the name, property and intellectual property rights of the State. Vendor shall obtain the prior advance written approval from the Department prior to Vendor's use of the name, marks or intellectual property rights of the Department or the State.

12.41 Notification of Events. Vendor shall notify the Department in writing if any of the following has been engaged in by or occurred with respect to Vendor or any corporation, shareholder or entity having or owing a controlling interest in Vendor:

12.41.1 Vendor files or permits the filing against it of a case or other proceeding seeking liquidation, reorganization, or other relief with respect to itself or its debts under any bankruptcy, insolvency, or other similar law now or hereafter in effect; or filing an answer admitting the material allegations of a petition filed against it in any involuntary case or other proceeding commenced against it seeking liquidation, reorganization, or other relief under any bankruptcy, insolvency, or other similar law now or hereafter in effect with respect to it or its debts; or consenting to any such relief or to the appointment of or taking possession by any such official in any voluntary case or other proceeding commenced against it seeking liquidation, reorganization or other relief under any bankruptcy, insolvency, or other similar law now or hereafter in effect with respect to it or its debts;

12.41.2 Seeking or suffering the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its assets; or

12.41.3 Making an assignment for the benefit of creditors; or

12.41.4 Failing, being unable, or admitting in writing the inability generally to pay its debts or obligations as they become due or failing to maintain a positive net worth and such additional capital and liquidity as is reasonably adequate or necessary in connection with Vendor's performance of its obligations under this Agreement

12.41.5 An order is entered approving an involuntary petition to reorganize the business of Vendor for all or part of its property; or

12.41.6 If a writ or warrant of attachment, execution, distraint, levy, possession or any similar process that may materially affect the operation of Vendor is issued by any court or administrative agency against all or any material portion of Vendor's property; or

12.41.7 Taking any action to authorize any of the foregoing.

SECTION 13 EXECUTION

IN WITNESS WHEREOF, in consideration of the mutual covenants set forth above and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, the parties have entered into the above Agreement and have caused their duly authorized representatives to execute this Agreement.

The State of Iowa

By: 

Name: Ashley Super

Title: DAS GSE Purchasing Agent III

Date: 4/27/06

Paper Free Technology, Inc.

By: 

Name: Dr. Samuel W. Warren, ED.D.

Title: President

Date: 4/27/2006

SCHEDULE A
STATEMENT OF WORK
(TO BE AGREED TO AT TIME OF ORDERING)

SCHEDULE B
PROJECT PLAN
(TO BE AGREED TO AT TIME OF ORDERING)

SCHEDULE C
PERFORMANCE STANDARDS
(TO BE AGREED TO AT TIME OF ORDERING)

CUSTOM SOFTWARE LICENSE AGREEMENT ATTACHED TO CT2985

This Software License Agreement (the "Agreement") is effective as of the date of last signature herein, and is made by and between the State of Iowa ("State") as represented by The Iowa Department of Administrative Services, General Services Enterprise on behalf of all State of Iowa Agencies and Political Sub-Divisions, referred to individually and collectively as "Licensee", and Paper Free Technology, Inc., a corporation organized under the laws of Iowa ("Licensor").

NOTE: This agreement only pertains to any custom software developed by Licensor for use by Licensee in association with LaserFiche® products. This does not include B-Import Pro software. This agreement does not change or modify the license agreement to which the State of Iowa must accept on the "off the shelf" LaserFiche® products by Compulink Management Center, Inc.

SECTION 1 DEFINITIONS

- 1.1 "Confidential Information" means, subject to any applicable State and federal laws and regulations, including but not limited to Iowa Code Chapter 22, any confidential or proprietary information or trade secrets disclosed by either party (a "disclosing party") to the other party (a "receiving party") that, at the time of disclosure, is designated as confidential (or like designation), is disclosed in circumstances of confidence, or would be understood by the parties, exercising reasonable business judgment, to be confidential. Confidential Information does not include any information that: (i) was rightfully in the possession of the receiving party from a source other than the disclosing party prior to the time of disclosure of the information by the disclosing party to the receiving party; (ii) was known to the receiving party prior to the disclosure of the information by the disclosing party; (iii) was disclosed to the receiving party without restriction by an independent third party having a legal right to disclose the information; (iv) is in the public domain or shall have become publicly available other than as a result of disclosure by the receiving party in violation of this Agreement or in breach of any other agreement with the disclosing party; (v) is independently developed by the receiving party without any reliance on Confidential Information disclosed by the disclosing party; (vi) is disclosed or is required or authorized to be disclosed pursuant to law, rule, regulation, subpoena, summons, or the order of a court, lawful custodian, governmental agency or regulatory authority, or by applicable regulatory or professional standards; or (vii) is disclosed by the receiving party with the written consent of the disclosing party.
- 1.2 "Deficiency" means a defect, flaw, anomaly, failure, omission, interruption of service, or other problem of any nature whatsoever with respect to the Software, including, without limitation, any failure of the Software to conform to or meet an applicable Specification. Deficiency also includes the lack of something essential or necessary for completeness or proper functioning of the Software.
- 1.3 "Documentation" means any and all technical information, commentary, explanations, design and system architecture documents, database layouts, test materials, training materials, guides, manuals, worksheets, notes, work papers, and all other information, documentation and materials related to or used in conjunction with the Software.
- 1.4 "Enhancements" means all updates, upgrades, patches, additions, modifications or other enhancements to the Software provided or made by Licensor or any Third Party Licensor, any new releases of Software, and all changes to the Documentation and Source Code as a result of such Enhancements.
- 1.5 "Governmental Entity" or "Governmental Entities" mean any governmental entity as defined in Iowa Code Section 8A.101(4) (Supp 2003) or any successor provision to that section.
- 1.6 "Services Contract" means the Services Agreement by and between the State of Iowa and Licensor.

- 1.7 "Software" means any customized software which the Licensor or any Third Party Licensor, (other than LaserFiche® products by Compulink Management Center, Inc.) creates for and on behalf of the State of Iowa and all other software programs and components listed in Schedule A and all related Documentation, Enhancements, , object code and copies thereof. Software includes Third Party Software (other than LaserFiche® products by Compulink Management Center, Inc.) Software is a Deliverable under the Services Contract.
- 1.8 "Source Code" means the human-readable source code for the Software and include source code listings, instructions (including compile instructions), programmer's notes, and commentary for and/or related to the source code or Software.
- 1.9 "Specifications" mean all specifications, requirements, technical standards, performance standards, representations and other criteria related to the Software stated or expressed in this Agreement, the Services Contract, Documentation, the Licensee's Request for Proposal, and the Licensor's proposal. Specifications shall include the Acceptance Criteria and any specifications, standards or criteria stated or set forth in any applicable state, federal, foreign and local laws, rules and regulations. The Specifications are incorporated into this Agreement by reference as if fully set forth in this Agreement.
- 1.10 "Statement of Work" shall have the meaning ascribed to it in the Services Contract.
- 1.11 "Third Party" means a person or entity (including, but not limited to any form of business organization, such as a corporation, partnership, limited liability corporation, association, etc.) that is not a party to this Agreement.
- 1.12 "Third Party Software" means Software licensed by Licensor from Third Parties and sub-licensed or otherwise furnished to Licensee in connection with this Agreement (other than LaserFiche® products by Compulink Management Center, Inc.). Third Party Software shall be considered Software under this Agreement.
- 1.13 "Warranty Period" shall have the meaning ascribed to it in the Services Contract.

SECTION 2 SOFTWARE LICENSE

2.1 License. Licensor hereby grants to Licensee and to Authorized Users a nonexclusive, irrevocable and perpetual license to use, execute, , test,, demonstrate and display the Software and to combine the Software with other software products ("State Use"). All Software subject to this Agreement may be used on any one or more of the Licensee's or any Governmental Entity's computers, data center locations, networks, Internet or intranet sites, servers or other systems ("Licensee Systems") within the State of Iowa Governmental Agencies and Political Sub-Divisions that ordered the licenses. For purposes of this Agreement, Authorized Users shall mean: (a) Licensee and Governmental Entities, and (b) independent contractors, consultants or other Third Parties who are retained or hired by Licensee or a Governmental Entity to maintain, modify or enhance the Software or for other purposes consistent with State Use. The Parties agree that if the Licensee or any Authorized User makes any modifications or enhancements to the Software, the Licensee or Authorized User who makes such modification or enhancement owns such modifications or enhancements

2.2 Delivery of Source Code. Licensor shall furnish and deliver to Licensee a complete copy of the Source Code (on a media and in an electronic format acceptable to Licensee) and updated Documentation (including any written information necessary or desirable for the maintenance, modification, compilation, and/or enhancement of the Software) for the most current version of all Software provided to Licensee hereunder if Licensor is unable to provide Enhancements to Software in accordance with terms of this Agreement. Source Code shall be provided for an additional fee mutually agreed to by Licensor and Licensee to be paid at the time that Source Code is provided upon the occurrence of any one or more of the following events: (i) Licensor violates or commits a breach of any term or condition of this Agreement or any agreement relating to maintenance and support of the Software, and Licensor fails to cure such breach within the time period established for curing such breach, if any; (ii) Licensor attempts to assign, transfer or subcontract its maintenance or support obligations, or any interest therein, or delegate any duty with respect to such obligations, without the prior written consent of Licensee; (iii) Licensor ceases to

provide maintenance and support to Licensee, whether due to its ceasing to conduct business generally or otherwise; (iv) Licensor terminates or suspends its business or ceases to do business; (v) Licensor becomes subject to any bankruptcy or insolvency proceeding under federal or state law; (vi) Licensor has become insolvent or unable to pay its obligations as they accrue or become due; (vii) Licensor makes an assignment for the benefit of Licensor's creditors; (viii) a receiver, trustee, liquidator, custodian or similar official has been appointed to act on behalf of the Licensor with respect to any of its operations or assets; (ix) Licensor merges, is sold or enters into an agreement to sell all or substantially all of its assets resulting in Licensor's failure to remain a party to, or otherwise retain all of its rights and obligations under, this Agreement and any agreement relating to maintenance and support of the Software, and the survivor or acquirer does not assume all of Licensor's rights and obligations under such agreements, whether by operation of law, written agreement or otherwise; or (x) Licensor violates or commits a breach of any term or condition of the source code escrow agreement, which breach has not been cured by Licensor within any applicable time period stated therein for curing such breach. Licensor shall provide a copy of the source code escrow agreement to Licensee within fifteen (15) days after execution of this Agreement, the terms and conditions of which must be acceptable to Licensee. Licensor shall pay all costs and fees payable to the escrow agent under the source code escrow agreement and shall not change the escrow agent or terminate, amend or modify the source code escrow agreement during the term of this Agreement, without Licensee's prior written consent.

All terms and conditions of this Agreement shall apply to the Source Code. In the event Licensee receives the Source Code in accordance with the terms of this Section 2.2, all of the rights and privileges granted under this Agreement with respect to the Software shall apply to the source code, and Licensee shall be entitled to exercise all of such rights and privileges with respect to the Source Code.

2.3 Third-Party Software. Licensor represents and warrants that this Agreement contains all of the terms, conditions and restrictions applicable to any Third Party Software (other than LaserFiche® products by Compulink Management Center, Inc.) licensed hereunder and to Licensee's and any Authorized User's use thereof or exercise of any rights with respect thereto. Any agreement that Licensor may have with Third Parties respecting Third Party Software shall in no way alter the terms and conditions of this Agreement. Licensor shall indemnify, defend and hold harmless the Licensee from and against any and all claims, demands, liabilities, suits, actions, damages, losses, costs and expenses of every kind and nature whatsoever arising as a result of Licensor's breach of any agreement it may have with Third Parties respecting Third Party Software, including Licensor's failure to pay any and all amounts due under any such agreement. Licensor shall take all action necessary to ensure that Licensee and Authorized Users shall be entitled to receive and enjoy all warranties and other benefits associated with Third Party Software, and Licensor shall assign to Licensee all warranties and indemnities pertaining to Third Party Software under any license or other agreement between Licensor and any Third Party relating to Third Party Software, if such assignment is allowed by existing licensing agreement with the Third Party Software.

SECTION 3 TERM

The term of this Agreement and the license granted hereunder shall be perpetual unless terminated by either party in accordance with the express terms of this Agreement.

SECTION 4 DELIVERY AND INSTALLATION

Licensor shall deliver the Software to Licensee and setup and install the Software for use on the Licensee Systems specified by Licensee in accordance with the Service Contract and the Statement of Work. Licensor shall bear all freight, shipping, handling and insurance costs for delivery of the Software and shall bear all risk of loss with respect to the Software, including any losses resulting from any damage to or destruction of the Software, in whole or in part, which may occur prior to Acceptance.

SECTION 5 COMPENSATION

5.1 License Fee. In consideration of the grant of the perpetual license and all other rights granted to Licensee and Authorized Users under this Agreement, Licensor shall be entitled to receive an amount specified in the Statement of Work for Software that is subject to all of the terms and conditions of this Agreement and the Services Contract, including Sections 5.1- 5.4, 5.6, 5.7 and 10.4 of the Services Contract. Such amount, when paid, shall be deemed a fully paid-up license fee, and Licensee and Authorized Users shall not be

required to pay any additional license fees, expenses, costs, charges or other amounts in connection with the grant of the licenses, distribution rights and other rights granted hereunder, or the provision of any other goods or services hereunder, unless otherwise agreed by Licensee in writing.

5.2 Invoice and Payment. Licensors shall submit to the Department an invoice requesting payment of the fee specified above and supporting documentation in accordance with the terms and conditions of Section 5.2 of the Services Contract. The Department shall pay all approved invoices in accordance with and subject to the terms and conditions of the Services Contract, including Sections 5.1- 5.4, 5.6, 5.7 and 10.4 thereof. Notwithstanding anything herein to the contrary, the Department shall have the right to dispute any invoice submitted for payment and withhold payment of any disputed amount if the Department believes the invoice is inaccurate or incorrect in any way.

5.3 Set Off. In the event that Licensors owe the Department or the State any sum under the terms of this Agreement, the Services Contract, any other agreement, pursuant to a judgment, or pursuant to any law, the Department may set off such sum against any sum invoiced to the Department in the Department's sole discretion unless otherwise required by law. Amounts due to the Department or State as liquidated damages or any other damages may be deducted by the Department without a judgment or any court action from any money or sum payable by the Department to Licensors pursuant to this Agreement or any other agreement between Licensors and the Department or the State.

5.4 Withholding. In addition to pursuing any other remedy provided herein or by law, the Department may withhold compensation or payments to Licensors, in whole or in part, without penalty to Licensee or work stoppage by Licensors, in the event: (i) Licensors fail to provide Software or correct any Deficiencies with respect to any Software to Licensee's satisfaction; (ii) Licensors fail to perform any of its other obligations as set forth in this Agreement and/or the Services Contract; or (iii) the Software or any portion thereof fails to meet or conform to any applicable Specifications. No interest shall accrue or be paid to Licensors on any compensation or other amounts withheld or retained pursuant to the Section 5.4.

SECTION 6 REPRESENTATIONS, WARRANTIES AND COVENANTS

6.1 Licensors represent and warrants that during the Warranty Period, the Software (in whole and in part) shall: (i) be free from material Deficiencies; (ii) conform to and operate in accordance with all Specifications; and (iii) be compatible with and interoperate fully and correctly with the Licensee Systems specified in Schedule B. Licensors warrants that all media containing or relating to the Software furnished hereunder shall be free from defects in material and workmanship. During the Warranty Period, Licensors shall, at Licensee's request, repair, correct or replace any Software that fails to comply with the warranties and requirements of this Section 6.1 promptly upon receiving notice of such failure from Licensee, but in no event more than [three (3)] days after the date of receipt of such notice. In the event Licensors is unable to repair, correct or replace such Software to Licensee's satisfaction, Vendor shall refund the fees or other amounts paid for such Software within ten (10) business days after Licensee's request for such refund. The foregoing shall not constitute an exclusive remedy under this Agreement, and Licensee shall be entitled to pursue any other available contractual, legal or equitable remedy. The Third Party Software shall warrant its own software, and Licensors only warrants software created by Licensors.

6.2 Licensors represent and warrants that Licensors is fully aware of Licensee's business requirements and intended uses for the Software as set forth in the RFP, and the Software Deliverables shall satisfy such requirements in all material respects and is fit for such intended uses.

6.3 Licensors represent and warrants that: (i) it is the owner or a licensee of the Software and owns any and all intellectual property rights in and to the Software, except those of Third Party Software, including, but not limited to, copyrights, trademarks, trade secrets, trade dress, and/or patent rights; (ii) it owns, possesses, holds, and has received all rights, permits, permissions, licenses and authority necessary to provide the Software to Licensee hereunder and to grant and convey the benefits, licenses and other rights granted or conveyed to Licensee and Authorized Users hereunder without violating any rights of any Third Party; (iii) the Software, excluding any Third Party Software, shall be wholly original with and prepared solely by Licensors; and (iv) Licensee shall peacefully and quietly have, hold, possess, use and enjoy the Software without suit, disruption or interruption.

6.4 Licensors represents and warrants that Licensee's (and any Authorized User's) use of the Software in accordance with the terms of this Agreement and Licensee's (and any Authorized User's) exercise of the rights, licenses and benefits granted or conveyed hereunder do not and shall not misappropriate a trade secret or infringe upon any copyright, patent, trademark, trade dress or other intellectual property right, proprietary right or personal right of any Third Party. Licensors further represents and warrants there is no pending or threatened claim, litigation or action that is based on a claim of infringement or violation of an intellectual property right, proprietary right or personal right or misappropriation of a trade secret related to the Software. Licensors shall immediately inform Licensee in writing upon becoming aware of any actual, potential or threatened claim of infringement or violation of any intellectual property right, proprietary right or personal right or misappropriation of a trade secret related to the Software. If such a claim arises or is likely to arise, then Licensors shall, at the Licensee's request: (i) procure for the Licensee and Authorized Users the right or license to continue to use the Software at issue; (ii) replace such Software with functionally equivalent or superior Software free of any such infringement, violation or misappropriation; or (iii) modify or replace the affected portion of the Software with functionally equivalent or superior Software free of any such infringement, violation or misappropriation. In the event Licensors is unable to fulfill its obligation under (i), (ii) or (iii) above as requested, Licensors shall accept the return of the Software and refund to the Licensee all fees, charges and any other amounts paid by the Licensee with respect to such Software. In addition, Licensors agrees to fully indemnify, defend, protect and hold harmless the Licensee, Authorized Users and their officers, directors, employees, officials and agents as provided in the Indemnification section of this Agreement. The foregoing remedies shall be in addition to and not exclusive of other remedies available to the Licensee and shall survive termination of this Agreement.

6.5 The Licensors represents and warrants that all Software provided under this Agreement which uses date data shall accurately process data, including but not limited to, calculating, comparing and sequencing from, into, between and among the nineteenth, twentieth and twenty-first centuries, including leap year calculations, integral calculations, day-in-year calculations, day-of-week calculations and week-of-year calculations; and not experience abnormal ending and/or produce invalid or incorrect results in the operation of the Software or Licensee's System. If the Software is to perform as a system with other hardware and/or software, then this warranty shall apply to the Software as it processes, transfers, sequences data, or otherwise interacts with other software, hardware, components or other parts of the system, provided that such other software, hardware, components or parts do not fail to meet any applicable requirements of this Section 6.5. The remedies available to the Licensee for breach of this warranty include, but are not limited to, repair or replacement of non-compliant Software. Nothing in this warranty shall be construed to limit any rights or remedies of the Licensee under this Agreement with respect to Deficiencies in the Software other than data processing compliance.

6.6 The Licensors represents and warrants that all Software and Enhancements do not and shall not as delivered or provided by Licensors contain an anti-use device, a disabling device, lockup program, a so-called "time bomb" or "drop dead" device, instructions, contaminants, viruses, Trojan Horses, worms, cancelbots, or any other mechanism, code or computer programming routine that will disable, damage, impair or impede, lock-up, alter, halt, abnormally end, surreptitiously intercept, expropriate or interfere with the Software, Licensee Systems or any data or information of Licensee. Licensors covenants that it will not under any circumstance, including enforcement of a valid contract right, (i) install or trigger a lockup program or disabling device, or (ii) take any step that would in any manner interfere with Licensee's use of the Software of Licensee Systems, or restrict Licensee from accessing its data files or in any way interfere with the transaction of Licensee's business. For any breach of this provision, Licensors shall, immediately after receipt of notification of the breach, cure the breach to Licensee's satisfaction, including, without limitation, repairing, at Licensors's expense, any damage done to the Software or Licensee Systems or any other property. Licensors's warrant only applies to Software created by Licensors.

6.7 Licensors represents, warrants and covenants that it has complied with, and shall comply with, all applicable federal, state, local and international laws, rules, regulations, codes, orders and ordinances in connection with its performance of this Agreement.

6.8 Licensors represents and warrants that it has no interest and shall not acquire any direct or indirect interest that would conflict in any manner or degree with the performance of its obligations under this Agreement.

6.9 Licensors represents and warrants that the Software and the license, use and other rights granted hereunder comply with, and shall comply with, all applicable federal, state, local and international laws, rules, regulations,

codes, orders and ordinances in effect as of the date of this Agreement. [Licensor represents and warrants that the Software will comply with applicable provisions of Section 508 of the Rehabilitation Act of 1973, as amended, and all standards and requirements established by the Architectural and Transportation Barriers Access Board and the Iowa Department of Administrative Services, Information Technology Enterprise.]

6.10 Notwithstanding anything to the contrary, in no event shall Licensor be liable for any modifications or enhancements made by Licensee or an Authorized User to the Software. Licensee acknowledges that no warranty is provided with respect to any such modifications or enhancements made by Licensee or an Authorized User.

SECTION 7 TERMINATION.

7.1 Termination by Licensee for Cause. The Licensee may terminate this Agreement, without penalty, upon written notice for the breach by Licensor of any material term, condition or provision of this Agreement, if such breach is not cured within any time period specified in the notice of breach or any subsequent notice delivered by Licensee to Licensor, assuming cure is feasible. In addition, Licensee may terminate this Agreement for any reason specified in Section 10.2 of the Services Contract upon providing any applicable written notice and opportunity for cure that may be required pursuant to that section. The Licensee's right to terminate this Agreement shall be in addition to and not exclusive of other remedies available to the Licensee.

7.2 Termination by Licensee for Reasons Other Than Cause. Licensee may terminate this Agreement for any of the reasons for which the Department may terminate the Services Contract (including Sections 10.2 and 10.3, but excluding Section 10.1) upon providing any applicable written notice expressly required to be provided pursuant to the Services Contract. For purposes of this Section 7.2, all references in the Services Contract to the terms "State," "Agreement," and "Deliverables" shall be deemed to include and additionally refer to the terms "Licensee," "Agreement," and "Software," respectively, as used herein. Licensee's right to terminate this Agreement for any of the reasons provided herein shall survive termination of the Services Contract.

7.3 Termination by Licensor for Cause. Licensor may only terminate this Agreement and revoke the license and other rights granted under this Agreement if Licensee has breached this Agreement by failing to pay in full the license fee specified in Section 5.1 in accordance with the terms of this Agreement and the Services Contract, or if Licensee commits a material breach of Section 9.2.2 of this Agreement, provided in either event that Licensor first gives Licensee written notice of the alleged breach and a 60-day period in which to cure the breach. Licensor may not terminate this Agreement and revoke the license and other rights granted hereunder if Licensee's failure to pay any portion or all of the license fee or other amounts arises from or relates to Licensee's withholding or retention of such amounts in accordance with this Agreement or the Services Contract. Upon termination of this Agreement by Licensor in accordance with this Section 7.3, Licensee will return the Software to Licensor or will certify in writing to Licensor that it has destroyed all copies of the Software. Except as expressly provided in this Section 7.3, Licensor shall not be entitled to terminate this Agreement or revoke the license and other rights granted herein.

7.4 Limitation of the Licensee's Payment Obligations. In no event shall Licensee be required to pay any amounts other than those expressly stated in Section 5.1 of this Agreement. The Licensee (and Authorized Users) shall not be liable, under any circumstances and regardless of termination of this Agreement, for any of the following:

7.4.1 The payment of unemployment compensation to Licensor's employees;

7.4.2 The payment of workers' compensation claims, which occur during the Agreement or extend beyond the date on which the Agreement terminates;

7.4.3 Any costs incurred by Licensor in its performance of the Agreement, including, but not limited to, startup costs, overhead or other costs associated with the performance of the Agreement and/or the Services Contract;

7.4.4 Any damages or other amounts, including amounts associated with the loss of prospective profits, anticipated sales, goodwill, or for expenditures, investments or commitments made in connection with this Agreement, the Services Contract or any agreement with Third Parties;

7.4.5 Any taxes Licensor may owe in connection with the performance of this Agreement or the Services Contract, including, but not limited to, sales taxes, excise taxes, use taxes, income taxes or property taxes.

SECTION 8 INDEMNIFICATION.

8.1 Licensors and its successors and permitted assigns shall defend, indemnify and hold the Licensee and Authorized Users and their employees, officers, directors, agents, and officials (individually and collectively "Indemnitees") harmless from and against any and all claims, actions, suits, liabilities, damages, losses, settlements, demands, deficiencies, judgments, costs and expenses (including, without limitation, the reasonable value of time of the Attorney General's Office and the costs, expenses and attorney fees of other counsel retained by any Indemnatee) directly related to, resulting from or arising out of this Agreement, including but not limited to any claims related to, resulting from, or arising out of:

- 8.1.1 Any violation or breach of any term or condition of this Agreement by Licensors; or
- 8.1.2 Any acts or omissions of the Licensors related to the performance of this Agreement, including any negligent acts or omissions, intentional or willful misconduct, or unlawful acts of Licensors, its officers, employees, agents, directors, contractors or subcontractors; or
- 8.1.3 Failure by Licensors or its employees, agents, officers, or directors to comply with any applicable local, state, federal and international laws, rules, ordinances or regulations; or
- 8.1.4 Any alleged or actual misappropriation of a trade secret or infringement or violation of any intellectual property right, proprietary right or personal right of any Third Party, including, without limitation, any patents, trademarks, trade dress, trade secrets, or copyrights.

8.2 Licensors's duties as set forth in this Section 8 shall survive the termination of this Agreement and shall apply to all acts taken in the performance of this Agreement regardless of the date any potential claim is made or discovered by Licensee or any other Indemnatee.

8.3 Licensee shall reasonably cooperate with Licensors to facilitate the defense of any action defended by Licensors. Licensee reserves the right to participate in the defense of any action or claim for which indemnification is provided hereunder.

SECTION 9 CONTRACT ADMINISTRATION

9.1 Independent Contractor. The status of the Licensors shall be that of an independent contractor. Licensee shall not provide the Licensors with office space, support staff, equipment or tools, or supervision beyond the terms of this Agreement. Neither the Licensors nor its employees shall be considered employees of the State of Iowa. Neither the Licensors nor its employees are eligible for any State employee benefits, including but not limited to, retirement benefits, insurance coverage or the like. Neither the Licensors nor its employees shall be considered employees of the Licensee or the State of Iowa for federal or state tax purposes. Licensee shall not withhold taxes on behalf of the Licensors (unless required by law). The Licensors shall be responsible for payment of all taxes in connection with any income earned from this project.

9.2 Confidentiality.

9.2.1 Licensors and its employees, agents, contractors and subcontractors may have access to Confidential Information, data, software, hardware, programs or other information or property possessed (exclusive of Licensors's Software and Documentation), owned or maintained by Licensee ("Licensee Property") to the extent necessary to perform its obligations under this Agreement and the Services Contract. Such Licensee Property shall at all times remain the property of Licensee. Licensors shall preserve the confidentiality of Licensee Property and shall maintain procedures for safeguarding such property. Licensors shall designate one individual who shall remain the responsible authority in charge of all Licensee Property received, collected, accessed, disseminated or otherwise used by Licensors in connection with the performance of this Agreement and the Services Contract. Licensors shall accept responsibility for providing adequate supervision and training to its employees, agents, contractors and subcontractors to ensure compliance with the terms of this Agreement. Licensors and its employees, agents, and contractors or subcontractors may be required by the Licensee to execute confidentiality or non-disclosure agreements to obtain access to certain Licensee Property. Licensors and its employees, agents, contractors and subcontractors shall not disclose, publish, reproduce, disseminate or otherwise use any Licensee Property received, collected, maintained, or used in the course of performance of the Agreement or the Services Contract except as permitted by the

Licensee to enable Licensor to perform its obligations under this Agreement and the Services Contract and except as authorized by applicable laws, rules or regulations, either during the term of this Agreement or thereafter. Licensor agrees to return any and all Licensee Property and all copies thereof received, collected, accessed, maintained, created, or used in the course or performance of the Agreement in whatever form it is maintained promptly at the request of Licensee. In the event that Licensor receives a request for access to any Licensee Property, Licensor shall immediately communicate such request to Licensee for consideration and handling. Licensor shall indemnify Licensee in the manner provided for indemnification elsewhere in this Agreement for a violation of this section. In the event of a breach of this Section, the Licensee may terminate this Agreement immediately without notice of default and opportunity to cure. Licensor's obligations under this Section 9.2.1 shall survive termination of this Agreement.

9.2.2 Except as provided or contemplated herein, and subject to applicable federal, state or international laws, rules or regulations (including Iowa Code Chapter 22 and [insert citation for the Department's Fair Info. Practices rules) the Licensee shall not disclose to Third Parties (excluding Authorized Users) any information of Licensor that is marked or otherwise clearly identified by Licensor as Confidential Information without the prior written consent of Licensor. Licensor shall limit such identification to information it reasonably believes is entitled to confidential protection pursuant to such applicable laws, rules and regulations. Notwithstanding the foregoing, the Licensee may disclose Licensor's Confidential Information pursuant to legal, judicial, or administrative proceedings, subpoena, summons, order, ruling or other legal or administrative processes, or applicable laws, rules, or regulations. In such event, the Licensee shall provide prompt notice to Licensor of the circumstances giving rise to the Licensee's disclosure. Licensor acknowledges that the Licensee is subject to Iowa Code Chapter 22 and other laws, rules and regulations governing public records. If a request is made to view or otherwise access Licensor's Confidential Information pursuant to such laws, rules or regulations, the Licensee will promptly notify Licensor of the request. Subject to the foregoing, the Licensee will use reasonable efforts to protect Licensor's Confidential Information provided such information can reasonably be determined to constitute a confidential record under Iowa Code Section 22.7 or other applicable laws, rules or regulations. In the event the Licensee reasonably determines that such information is not a confidential record, the Licensee may release such information unless Licensor files an action in Polk County District Court to prevent the release of the requested information within ten (10) days of receiving notice from the Licensee. For purposes of this Section 9.2.2, the source code for the Software shall be considered Confidential Information of Licensor.

9.3 Compliance with Laws. Licensor and its employees, agents, officers, directors, contractors and subcontractors shall comply with all applicable federal, state, international and local laws, rules, ordinances, regulations and orders when performing within the scope of this Agreement, including, without limitation, all laws applicable to the prevention of discrimination in employment, the administrative rules of the Iowa Department of Management or the Iowa Civil Rights Commission which pertain to equal employment opportunity and affirmative action, laws relating to prevailing wages, occupational safety and health standards, prevention of discrimination in employment, payment of taxes, gift laws, lobbying laws and laws relating to the use of targeted small businesses as subcontractors or suppliers. Licensor shall comply with any applicable reporting and compliance standards of the Department of Management regarding equal employment. Licensor may be required to submit its affirmative action plan to the Department of Management to comply with the requirements of 541 Iowa Admin. Code 4. Licensor represents and warrants that it has complied with all federal, state, foreign and local laws, codes, rules, ordinances, orders and regulations applicable to the performance of its obligations under this Agreement.

9.4 Amendments. This Agreement may be amended in writing from time to time by mutual consent of the parties. All amendments to this Agreement must be fully executed by the parties.

9.5 Third-Party Rights. No person other than the parties hereto, their respective successors and permitted assigns, and Authorized Users may rely on or derive any rights pursuant to or under this Agreement. This Agreement is intended to benefit only the Licensee, Authorized Users and the Licensor.

9.6 Choice of Law and Forum. This Agreement shall be governed in all respects by, and construed in accordance with, the laws of the state of Iowa, without giving effect to the choice of law principles thereof. Any and all litigation or actions commenced in connection with this Agreement, including after expiration or termination of

this Agreement, shall be brought in Des Moines, Iowa, in Polk County District Court for the State of Iowa, if jurisdiction is proper. However, if jurisdiction is not proper in the Iowa District Court for Polk County, but is proper only in a United States District Court, the matter shall be commenced in the United States District Court for the Southern District of Iowa, Central Division. Licensors hereby irrevocably: (i) consents and agrees that any legal or equitable action or proceeding arising under, in connection with or arising out of this Agreement shall be brought and maintained exclusively in the aforesaid courts; and (ii) submits to and accepts, with respect to any such action or proceeding, for it and in respect of its properties and assets regardless of the physical or legal situs thereof, generally and unconditionally, the jurisdiction of the aforesaid courts. This provision shall not be construed as waiving any immunity to suit or liability, in state or federal court, which may be available to the Licensee. Licensors irrevocably consents to service of process by certified or registered mail addressed to the Licensors' designated agent. The Licensors appoints [name] at [address] Des Moines, Iowa, as its agent to receive service of process. If for any reason the Licensors' agent for service is unable to act as such or the address of the agent changes, Licensors shall immediately appoint a new agent and provide the Department with written notice of the change in agent or address. Any change in the appointment of the agent or address will be effective only upon actual receipt by the Licensee. Nothing in this provision will alter the right of the Licensee to serve process in any other manner permitted by law. This Section 9.6 shall survive termination of this Agreement.

9.7 Assignment and Delegation. This Agreement may not be assigned, transferred or conveyed in whole or in part without the prior written consent of the other party, except that the Licensee may assign this Agreement to any State agency or unit of State government that succeeds the Department's duties hereunder or otherwise assumes responsibility for functions or duties currently assumed by the Department to which the Software relates. For purposes of construing this clause, a transfer of a controlling interest in the Licensors, a merger, sale or consolidation of Licensors, or a sale of substantially all of Licensors' assets shall be considered an assignment. Licensors agrees that it shall provide Licensee with the earliest possible advance notice of any proposed sale or transfer or any controlling interest in or substantial assets of Licensors and of any proposed merger, sale or consolidation of Licensors. Licensors agrees that it shall not use this Agreement, or any portion thereof, for collateral or to otherwise secure any financial obligation of Licensors or any affiliate thereof without the prior written consent of Licensee.

9.8 Integration. This Agreement represents the entire agreement between the parties concerning the grant of the perpetual license, distribution rights and other rights granted to Licensee and Authorized Users under this Agreement, and neither party is relying on any representation that may have been made with respect thereto which is not included in this Agreement. This Agreement shall not supersede the Services Contract. Licensee shall not be bound by any "shrink-wrap" agreement, "click-wrap" agreement, "sneakwrap" agreement, or any other similar agreement that may accompany or relate to the Software. This in no way effects any licensing requirements by Third Party Software. Licensors acknowledges that it has thoroughly read this Agreement and all related schedules, exhibits and other documents and has had the opportunity to receive competent advice and counsel necessary for it to form a complete understanding of all rights and obligations herein and to accept same freely and without coercion of any kind. Accordingly, this Agreement shall not be construed or interpreted against the Licensee on the basis of draftsmanship or preparation hereof.

9.9 Headings or Captions and Terms. The paragraph headings or captions are for identification purposes only and do not limit or construe the contents of the paragraphs. Unless the context of this Agreement otherwise clearly requires, references to the plural include the singular, references to the singular include the plural, and the word "or" has the inclusive meaning represented by the phrase "and/or." The words "include" and "including" shall be deemed to be followed by the phrase "without limitation." The words "thereof," "herein," "hereunder," and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement.

9.10 Not a Joint Venture. Nothing in this Agreement shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the parties hereto. Each party shall be deemed to be an independent contractor contracting for services and acting toward the mutual benefits expected to be derived herefrom. No party, unless otherwise specifically provided for herein, has the authority to enter into any agreement or create an obligation or liability on behalf of, in the name of, or binding upon another party to this Agreement.

9.11 Obligations Beyond Agreement Term. This Agreement shall remain in full force and effect perpetually unless terminated pursuant to Section 7 of this Agreement. Licensors' obligations under this Agreement which by

their nature would continue beyond the termination of this Agreement, including, by way of illustration and not by limitation, those obligations set forth in Sections 2.3, 5.2-5.4, 6-8, 9.4, 9.2, 9.3, 9.5, 9.6, 9.8, 9.11-9.16, 9.18, 9.19, 9.22, 9.24-9.26, 9.29, and 9.33-9.35 shall survive termination of this Agreement.

9.12 Use of Third Parties. None of the services to be provided by Licensor pursuant to this Agreement shall be subcontracted or delegated to any Third Party without the prior written consent of Licensee. Licensee's consent shall not be deemed in any way to provide for the incurrence of any additional obligation of Licensee, whether financial or otherwise. Any subcontract to which the Licensee has consented shall be in writing and shall in no way alter the terms and conditions of this Agreement. All subcontracts shall be subject to the terms and conditions of this Agreement and to any conditions of approval that Licensee may deem necessary. Licensor is solely liable for any and all payments that may be due to the subcontractor pursuant to its subcontract agreement with Licensor. Licensor shall indemnify, defend and hold harmless the Licensee from and against any and all claims, demands, liabilities, suits, actions, damages, losses, costs and expenses of every kind and nature whatsoever arising as a result of Licensor's breach of any subcontract into which it enters, including Licensor's failure to pay any and all amounts due by Licensor to any subcontractor. No subcontract or delegation of work shall relieve or discharge Licensor from any obligation, provision, or liability under this Agreement. Licensor shall remain responsible for such performance and shall be fully responsible and liable for all acts or omissions of any such contractor or subcontractor. Any action of a subcontractor, which, if done by Licensor, would constitute a breach of this Agreement, shall be deemed a breach by Licensor and have the same legal effect.

9.13 Waiver. Except as specifically provided for in a waiver signed by duly authorized representatives of Licensee and the Licensor, failure by either party at any time to require performance by the other party or to claim a breach of any provision of the Agreement shall not be construed as affecting any subsequent breach or the right to require performance with respect thereto or to claim a breach with respect thereto.

9.14 Notices. Notices under this Agreement shall be in writing and delivered to the representative of the party to receive notice (identified below) at the address of the party to receive notice as it appears below or as otherwise provided for by proper notice hereunder. The effective date for any notice under this Agreement shall be the date of delivery of such notice (not the date of mailing) which may be effected by certified U.S. Mail return receipt requested with postage prepaid thereon or by recognized overnight delivery service, such as Federal Express or UPS:

If to the State of Iowa:	Ashley Super, PA III, Iowa Department of Administrative Services, GSE Purchasing Hoover State Office Building, Level A, Des Moines, IA 50319-0105; Fax: 515-242-5974
If to Vendor:	Dr. Samuel W. Warren, ED.D. Pres., Paper Free Technology, Inc., 9810 Quail Ridge, Urbandale, IA 50322-1393; Fax: 515-253-9251

Any notice or communication sent by certified U.S. Mail under this Agreement shall be deemed given upon receipt as evidenced by the U.S. Postal Service return receipt card, or if sent by overnight delivery service, upon receipt as evidenced by the signature attained by the carrier. From time to time, either party may change the name and address of a party designated to receive notice. Such change of the designated person shall be in writing to the other party and as provided herein.

9.15 Cumulative Rights. The various rights, powers, options, elections and remedies of Licensee provided in this Agreement shall be construed as cumulative and not one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed Licensee by law, and shall in no way affect or impair the right of Licensee to pursue any other equitable or legal remedy to which Licensee may be entitled. Licensee's election of any one or more remedies shall not constitute a waiver of the right to pursue any other available remedies.

9.16 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this Agreement.

9.17 Authorization. Licensor represents and warrants to Licensee that:

9.17.1 It has the right, power and authority to enter into and perform its obligations under this Agreement.

9.17.2 It has taken all requisite action (corporate, statutory, or otherwise) to approve execution, delivery and performance of this Agreement, and this Agreement constitutes a legal, valid and binding obligation upon itself enforceable in accordance with its terms.

9.18 Successors in Interest. All the terms, provisions, and conditions of the Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, permitted assigns, and legal representatives

9.19 Record Retention And Access. The Licensor shall maintain books, records, and documents which sufficiently and properly document all services and deliverables provided under this Agreement and calculate all charges billed to the Licensee throughout the term of this Agreement for a period of at least five (5) years following the later of the date of final payment, termination or expiration of this Agreement, or completion of any required audit. The Licensor shall permit the Licensee, the Auditor of the State of Iowa or any authorized representative of the State and where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government, to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records or other records of the Licensor relating to orders, invoices, or payments or any other documentation or materials pertaining to this Agreement. The Licensor shall not impose or seek payment for any charge, fee or expense associated with any audit or examination of the Licensor's books and records conducted in accordance with this provision. The provisions of this section 9.19 shall be incorporated by Licensor in any permitted subcontract with a value or cost of \$10,000 or more.

9.20 Counterparts. The parties agree that this Agreement has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.

9.21 Additional Provisions. The parties agree that if an Addendum, Schedule, Rider or Exhibit is attached and referred to in this Agreement then the same shall be deemed incorporated herein by reference.

9.22 Further Assurances and Corrective Instruments. Licensor agrees that it will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of this Agreement.

9.23 Award of Related Agreements. The Licensee may undertake or award supplemental or successor agreements for work related to this Agreement, the Services Contract or with respect to the Software. Licensor shall cooperate fully with other contractors, consultants and other persons who may be engaged by Licensee in connection with this Agreement, the Services Contract or with respect to any of the Software. Licensor will ensure that its subcontractors, if any, will abide by this provision.

9.24 Sovereign Immunity. The State does not waive sovereign immunity by entering into this Agreement and specifically retain and reserve the defense of sovereign immunity and all defenses available to them under State and federal laws, rules and regulations, including, without limitation, Iowa Code Chapter 669 and the Constitution of the State of Iowa.

9.25 Care of Property. Licensor shall be responsible for the proper custody and care of any Licensee Property furnished for Licensor's use in connection with the performance of the Agreement, and Licensor will reimburse the Licensee for any loss or damage to such property caused by Licensor, or any person, agent or subcontractor employed or utilized by Licensor, normal wear and tear excepted.

9.26 Licensor shall notify Licensee in writing if any of the following has been engaged in by or occurred with respect to Licensor or any corporation, shareholder or entity having or owing a controlling interest in Licensor:

9.26.1 Licensor files or permits the filing against it of a case or other proceeding seeking liquidation, reorganization, or other relief with respect to itself or its debts under any bankruptcy, insolvency, or other similar law nor or hereafter in effect; or filing an answer admitting the material allegations of a petition filed against it in any involuntary case or other proceeding commenced against it

seeking liquidation, reorganization, or other relief under any bankruptcy, insolvency, or other similar law now or hereafter in effect with respect to it or its debts; or consenting to any such relief or to the appointment of or taking possession by any such official in any voluntary case or other proceeding commenced against it seeking liquidation, reorganization or other relief under any bankruptcy, insolvency, or other similar law now or hereafter in effect with respect to it or its debts;

- 9.26.2 Seeking or suffering the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its assets; or
- 9.26.3 Making an assignment for the benefit of creditors; or
- 9.26.4 Failing, being unable, or admitting in writing the inability generally to pay its debts or obligations as they become due or failing to maintain a positive net worth and such additional capital and liquidity as is reasonably adequate or necessary in connection with Licensor's performance of its obligations under this Agreement
- 9.26.5 An order is entered approving an involuntary petition to reorganize the business of Licensor for all or part of its property; or
- 9.26.6 If a writ or warrant of attachment, execution, distraint, levy, possession or any similar process that may materially affect the operation of Licensor is issued by any court or administrative agency against all or any material portion of Licensor's property; or
- 9.26.7 Taking any action to authorize any of the foregoing.

9.27 Disclaimer. All statistical, fiscal and other information contained in the RFP and any appendices or attachments thereto reflects the information available to Licensee at the time the above-cited documents were prepared. Licensee does not warrant the accuracy of any such information and shall not be liable for any errors or omissions, or the results of errors or omissions, which may be discovered, at any time, to exist in those documents.

9.28 Exclusivity. This Agreement is not exclusive. During the term of this Agreement, Licensee may obtain similar services and deliverables from other providers.

9.29 Title to Property. Title to all property, excluding software provided by Licensor, including, without limitation, Licensee Property, furnished by or on behalf of Licensee to Licensor to facilitate the performance of this Agreement shall remain the sole property of the Licensee. All such property shall only be used by Licensor for purposes of fulfilling its obligations under this Agreement and shall be returned to the Licensee upon the earliest of completion, termination, or cancellation of this Agreement or at Licensee's request. Title to all property purchased by Licensor, for which Licensor has been reimbursed or paid by the Licensee under this Agreement shall pass to and vest in the Licensee upon Acceptance of the Software Deliverables, except as otherwise provided in this Agreement.

9.30 Material Breaches. The references in this Agreement to specific material breaches of this Agreement shall not be construed as implying that other breaches of this Agreement are not material.

9.31 Right of Inspection. Licensor shall allow Licensee, or anyone designated by the Licensee, to inspect its facilities and books and records at all reasonable times in order to monitor and evaluate performance of this Agreement.

9.32 Taxes. Licensor shall be responsible for paying any taxes incurred by Licensor in the performance of this Agreement. The State and the Department are exempt from the payment of Iowa sales and other taxes.

9.33 Obligations of Joint Entities. If Licensor is a joint entity, consisting of more than one individual, partnership, corporation or other business organization, all such entities shall be jointly and severally liable for carrying out the activities and obligations of this agreement, and for any default of such activities and obligations.

9.34 Attorney's Fees and Expenses. Subject to the other terms and conditions of this Agreement, in the event Licensor defaults in any obligations under this Agreement, Licensor shall pay to Licensee all costs and expenses (including, without limitation, the reasonable value of time of the Attorney General's Office and the costs, expenses and attorney fees of other counsel retained by or on behalf of Licensee) incurred by Licensee in enforcing this Agreement or any of its rights and remedies with respect thereto.

9.35 Time is of the Essence. Time is of the essence with respect to Licensor's performance of its obligations under this Agreement. Licensor shall ensure that all personnel providing services to Licensee are responsive to Licensee's requirements and requests in all respects.

SECTION 10 EXECUTION

IN WITNESS WHEREOF, in consideration of the mutual covenants set forth above and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, the parties have entered into the above Agreement and have caused their duly authorized representatives to execute this Agreement.

Licensor

By: Amuel W. Warren
Title: President

Date: 4/27/2006

Licensee

State of Iowa, acting by and through the Department of Administrative Services

By: Adley Gu
Title: PAM

Date: 4/27/06

SCHEDULE A

DESCRIPTION OF CUSTOM SOFTWARE SUBJECT TO THE SOFTWARE LICENSE AGREEMENT
(TO BE COMPLETED BY USER AGENCY)

SCHEDULE B

LICENSEE SYSTEMS ON WHICH THE CUSTOM SOFTWARE WILL BE INSTALLED INITIALLY
(TO BE COMPLETED BY USER AGENCY)